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GOVERNMENT LAW  
AND  
ADMINISTRATION**

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**ANNUAL CONTINUATION VOLUME, 1946**



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# LOCAL GOVERNMENT LAW AND ADMINISTRATION IN ENGLAND AND WALES

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## **HALSBURY'S COMPLETE STATUTES OF ENGLAND**

References to Public Acts of Parliament are followed by a reference to the volume and page at which the Act or section of the Act appears in Halsbury's Complete Statutes of England. Thus:

The Local Government Act, 1933; 26 Halsbury's Statutes 295.

## **ALL ENGLAND LAW REPORTS**

After cases heard since February, 1936, references are given to this series of reports thus:

*Camkin v. Bishop*, [1941] 2 All E. R. 713.

## PUBLISHERS' NOTE

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THIS volume contains the relevant Statutes, Orders, Circulars and Memoranda, and Cases of the year 1946. The same classification of titles has been followed as in previous years, the emergency legislation being dealt with under the various headings.

Among the Statutes of 1946 are a number which are of particular interest and importance to local authorities. Prominent among these are the National Health Service Act, 1946, which lays the foundation for a comprehensive health service for England and Wales, the Acquisition of Land (Authorisation Procedure) Act, 1946, which prescribes a uniform procedure for authorising the compulsory acquisition of land and also a speedy procedure for acquisition in cases of urgency, and the Housing (Financial and Miscellaneous Provisions) Act, 1946, which lays down new rates of annual Exchequer and rate fund contributions in respect of houses provided by local authorities. The Police Act, 1946, abolishes non-county boroughs as separate police areas, and makes permanent provision for both voluntary and compulsory amalgamations of county and county borough police forces; the Local Government (Financial Provisions) Act, 1946, provides for the making of an Interim Supplementary Exchequer Contribution for each of the years 1946, 1947 and 1948, and the Building Restrictions (War-Time Contraventions) Act, 1946, is designed to deal with the situation arising out of non-compliance during the war with building laws and town planning provisions. Other Statutes of importance which are printed in this volume are the Trunk Roads Act, 1946, the Furnished Houses (Rent Control) Act, 1946, the New Towns Act, 1946, the Licensing Planning (Temporary Provisions) Act, 1946, and the Railways (Valuation for Rating) Act, 1946.

Important Statutory Rules and Orders printed in this volume are the Electoral Registration Regulations, 1946, which revoke and replace the Regulations of 1944 and 1945, the Compulsory Purchase of Land Regulations, 1946, the Displaced Chief Constables (Compensation) Regulations, 1946, the Jurors Book Regulations, 1946, and the Licensing Planning Regulations, 1946. Also of importance is the Transfer of Functions (Secretary of State and Minister of Health) Order, 1946, S.R. & O., 1946, No. 1757. This Order is not, however, included in the present volume as, on account of its nature, it was considered that it could be more adequately dealt with in the Annual Cumulative Supplement.

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*June, 1947.*

## LIST OF ABBREVIATIONS

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All England Reports .. .. .	All E.R.
Attorney-General .. .. .	A.-G.
Brothers .. .. .	Bros.
Company .. .. .	Co.
Corporation .. .. .	Corpn.
Home Office .. .. .	H.O.
Justices .. .. .	JJ.
Limited .. .. .	Ltd.
London County Council .. .. .	L.C.C.
Local Government Act .. .. .	L.G.A.
Medical Officer of Health .. .. .	M.O.H.
Ministry of Agriculture and Fisheries .. .. .	M. of A.
Ministry of Health .. .. .	M. of H.
Ministry of Transport .. .. .	M. of T.
Provisional Rules and Orders .. .. .	P.R. & O.
Public Health Acts .. .. .	P.H.A.
Railway Company .. .. .	Rail. Co.
Rating and Valuation Act .. .. .	R. & V.A.
Rural District Council .. .. .	R.D.C.
Statutory Rules and Orders .. .. .	S. R. & O.
Urban District Council .. .. .	U.D.C.

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# ACTIONS BY AND AGAINST LOCAL AUTHORITIES

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## CASES

*Negligence—Dangerous article—Gas geyser—Defective installation by landlord—Liability of landlord to tenant's lodger.*

A lodger in one of the defendant corporation's houses died from accidentally inhaling carbon monoxide fumes generated by, or emitted from, a gas geyser in the bathroom. The vent pipe of the geyser, which had been installed under the direction of the corporation's architect when the house was built for the corporation some years before, terminated under the eaves and had no efficient baffle, with the result that a down-draught was created, which interfered with combustion and caused carbon monoxide to be produced and discharged into the bathroom, a defect to which the corporation's attention had been drawn by the local gas company. In an action by the mother of the deceased, under the Fatal Accidents Act, 1846, it was contended on behalf of the plaintiff that where a person negligently installs a dangerous apparatus in a dwelling-house he is liable to anyone injured as a result of that negligence, and that the corporation were, through their servants or agents, who had done the work, liable to the plaintiff :—

*Held* : that the case fell to be decided on the principle that a landlord who lets a house in a dangerous state was not liable to the tenant's customers or guests for accidents happening during the term, and that the principle of *M'Alister (or Donoghue) v. Stevenson*, [1932] A. C. 562, had no application. The corporation were, therefore, not liable.—*TRAVERS v. GLOUCESTER CORPN.*, [1947] K. B. 71 ; [1946] 2 All E. R. 506 ; 115 L. J. K. B. 517 ; 175 L. T. 360 ; 110 J. P. 364 ; 62 T. L. R. 723 ; 90 Sol. Jo. 556 ; 44 L. G. R. 333. [1]

*Master and servant—Common employment—"Common work"—Electric trams in collision on highway—Injury to conductress.*

The defence of common employment depends on the theory that the contract of employment between workman and employer contains an implied term that the workman will not hold his employer liable for an injury due to the negligence of a fellow-servant engaged in common employment with him. To make good the defence it is not enough that the plaintiff was a fellow-servant of the person by whose fault he was injured, but it is also necessary that the two should have been engaged at the time of the injury in a "common work," a phrase which is not limited to the sharing of the same task, but covers the case where the work of one is so related to the work of the other that the risk of injury to the one, due to the carelessness of the other, is not merely fortuitous, but is a special risk involved in the relationship itself, so that that risk must be deemed to have been in contemplation of the injured servant when he entered into his contract of service.

The decision in *Radcliffe v. Ribble Motor Services, Ltd.*, [1939] A. C. 215, does not support the broad proposition that the defence of common employment is never available when two vehicles driven by fellow-servants of the



same employer collide on the highway. If the risk of collision between them is merely the ordinary risk arising from contiguity in traffic, *i.e.* the risk of being run into by another vehicle, whoever is its driver, then the injured party has no special interest in the skill and caution of a driver who is his fellow-servant. The risk he runs is a mere risk of the road in the sense that he might equally well be run into by anyone else driving in his vicinity, but, if the relation between the work of the two fellow-servants is such that one of them depends for his safety from harm in a special degree on the care and skill of the other, then they are engaged in a "common work" and the term in the contract of employment exonerating the common employer from liability has to be implied. Each case must be judged on its own facts.

The appellant was engaged in her employment as conductress of one of the respondents' electric tramcars which was about to travel up a steep incline at a short distance from another of the respondents' tramcars, both cars being on the same line of rails and forming part of the same shuttle-service, each with its appropriate timetable. The electric system of the leading car became overloaded while mounting the hill, a contact breaker came into operation, and as a result the car was left on the slope without electric motive power. The duty of the driver in such circumstances was promptly to apply his brakes and thus hold the car stationary. He negligently failed to do so and the car ran backwards down the hill, and in the collision which resulted the appellant sustained personal injuries :—

*Held* : the doctrine of common employment applied since (i) the circumstance that tramcars cannot avoid an impending collision by lateral movement and that a common path is prescribed for them by the rails on which they travel necessarily creates a greater risk than the ordinary risk arising from contiguity in traffic, (ii) the crews of the two tramcars were carrying out a "common work," and (iii) the appellant's contract of employment was rightly regarded by the court below as including the implied term exonerating the respondents from liability for the negligence of her fellow-servant.

*Decision of THE SECOND DIVISION OF THE COURT OF SESSION, 1946, S. C. 109, affirmed.*—GRAHAM (OR MILLER) *v.* GLASGOW CORPN., [1947] 1 All E. R. 1; [1947] L. J. R. 239; 176 L. T. 142; 63 T. L. R. 42, H. L. [2k

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## AGRICULTURE

CASES :—

Preston *v.* Norfolk County Council, [1946] 2 All E. R. 461 - - - - - 2

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### CASES

*Agriculture—Agricultural holding—Compensation for disturbance—Notice to quit—Tenant refusing to leave—Judgment for possession—Whether tenant still entitled to compensation—Cost of threshing—Custom of the country—Jurisdiction of High Court to hear Special Case—Agricultural Holdings Act, 1923 (c. 9), ss. 12, 16, Sched. II.*

The claimants were yearly tenants of an agricultural holding owned by the respondents. The tenancy was, in due course, terminated by a notice to quit, during the currency of which the claimants gave notice that they intended to make a claim for compensation under the Agricultural Holdings Act, 1923, s. 12. The premises were not delivered up on the due date, and so a writ was issued and judgment obtained for possession. By an agreement between the parties there were incorporated in the judgment a number of

provisions providing, in default of agreement, for reference to arbitration of, *inter alia*, the right of the claimants to compensation for disturbance and the cost of threshing certain crops which the claimants were, by the agreement, permitted to do on condition that the straw was left "free of cost" to the respondents :—

*Held* : (i) the question whether the claimants could claim compensation at all in the circumstances was one which the parties had power to refer to arbitration under the Arbitration Act, as distinct from the Agricultural Holdings Act, and, therefore, the court had jurisdiction to consider a Special Case stated by the arbitrator.

(ii) as the subsequent judgment for possession was founded on the fact that the notice to quit had been given, the claimants, when they were ejected, left the premises "in consequence of" the notice to quit within the meaning of the Agricultural Holdings Act, 1923, s. 12, and were, therefore, entitled to compensation.

*Mills v. Rose*, [1923] W. N. 330, *followed*; *Cave v. Page*, [1923] W. N. 178, *discussed*.

(iii) by the agreement in the judgment the parties intended that exactly the same state of affairs should apply as though the arbitration were held at a time when the claimants were going out in the ordinary way without the intervention of the court, and, consequently, in accordance with the custom of the country, the claimants were entitled to the cost of threshing the straw crops.

(iv) the incorporation in the judgment of provisions for arbitration in certain matters in dispute between the parties was undesirable because none of the issues on those matters had been before the court which was, therefore, made to give judgment upon matters which were not the subject of any action.—*PRESTON v. NORFOLK COUNTY COUNCIL*, [1946] 2 All E. R. 461; 90 Sol. Jo. 502; 44 L. G. R. 319. [3]

## AREAS OF LOCAL GOVERNMENT

CASES :—

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### CASES

*Local Government—Alteration of area—Extension of county borough to include part of county area—Loss to county ratepayers—Financial adjustments—Increased burden on county ratepayers—Amount of compensation—Method of assessing compensation—"Income"—Local Government Act, 1933 (c. 51), s. 152 (1) (b), Sched. V, r. 1—Newport Extension Act, 1934 (c. lvii), s. 58.*

An adjustment was being made by an arbitrator between the County Borough of Newport and the Monmouthshire County Council on the occasion of the alteration of areas brought about by the Newport Extension Act, 1934, which detached certain areas from the county and transferred them to the county borough. On this adjustment provision had to be made for the increase of burden thrown on the ratepayers of the county pursuant to the Local Government Act, 1933, s. 152 (1) (b). Sched. V to the Act contains rules for determining the sum to be paid in respect of this increased burden.

Rule 1 provides: "Regard shall be had to—(a) the difference between the burden on the ratepayers which will properly be incurred by the local authority in meeting the cost of executing any of their functions and the burden on the ratepayers which would properly have been incurred by the local authority in meeting such cost had no alteration of boundaries or other change taken place; (b) the length of time during which the increase of burden may be expected to continue: Provided that no alteration of income in consequence of an apportionment under the regulations made under the Local Government Act, 1929, s. 108 (1) (b), shall be taken into account." Rule 1 (a) in effect directs the arbitrator to have regard to the difference between the burden as it "will be" and the burden as it "would have been." The expenditure in the unreduced area was £745,942; percentages of the total rate income of the unreduced county referable to the added area and the reduced area respectively were 4.432 per cent. and 95.568 per cent.; and the savings in expenditure amounted to £8,385. If the whole of the expenditure of £745,942 had fallen to be borne by the ratepayers the result would have been as follows: "would have been" burden on the ratepayers in the area which subsequently became the "reduced area"—95.568 per cent. of £745,942; "will be" burden on the same ratepayers—£745,942 less £8,385, and the difference would have represented the increase of burden due to the alteration in area. The difficulty arose owing to the fact that the county council had a source of income from the General Exchequer Grant which had to be taken into account before the burden on the ratepayers could be ascertained, and the proviso to rule 1 requires that in arriving at the burden this grant is to be treated in an artificial way. It was common ground that in ascertaining the increase of burden a deduction from the expenditure, the cost of which would otherwise fall on the ratepayers, must be made in respect of the General Exchequer Grant, and that the sum to be deducted must be the same in calculating both the burden that "would have been" and the burden that "will be," thrown on the ratepayers. The dispute related to the manner in which these principles were to be applied in view of the terms of the proviso to rule 1. The method adopted by the county council was to ascertain, for the "would have been" burden (1) the proportion (£15,767) of the Exchequer Grant (£355,744) referable to the added area and (2) the proportion (£17,293) of the rates leviable on the same area. These two sums (making together £33,060) were deducted from the total expenditure of £745,942. The resulting figure of £712,882 gave the slice of the total pre-alteration expenditure referable to what was to become the reduced area. The problem then was to find what the burden on the ratepayers in that area would have been. This was ascertained by attributing to that area its proportion of the Exchequer Grant (viz. £355,744 less the £15,767, or £339,977) and deducting that proportion from the £712,889: the resulting figure £372,912 was the "would have been" burden on the ratepayers. The figure of £339,977, being the proportion of the Exchequer Grant referable to what became the reduced area, was the crucial matter in the county council's method of calculation which was based on the view that the burden that "would have been" and the burden that "will be" thrown on the ratepayers in the reduced area could only be ascertained by attributing to that area its due proportion of the Exchequer Grant which operated to relieve the ratepayers in that area. In their calculation of the "will be" burden they deducted the same figure of £339,977 from the expenditure of the reduced area (viz. £745,942 less the saving of £8,385) leaving £397,580 as the "will be" burden on the ratepayers in that area. The difference between that figure and £372,905, the figure of the "would have been" burden, was £24,675, and this was the annual increase of burden. The county borough proceeded on a different principle. Nowhere in its calculations did it arrive at a figure for the proportion of the General Exchequer Grant referable to the

reduced area. It interpreted the proviso as forbidding the ascertainment of such a figure which, it said, would be equivalent to treating the amount of the grant as having been altered in consequence of the alteration of boundaries. The "income" referred to in the proviso was, it was argued, income of the county council, and the effect of the proviso was to require the whole of the pre-alteration grant to be treated as still the income of the county council, notwithstanding the alteration of areas. On this basis the amount of the grant available to relieve the burden on the ratepayers in the reduced area would be the whole of the pre-alteration grant, viz. £355,744. Accordingly, in dealing with the figures they proceeded as follows: In order to arrive at the "would have been" burden they treated the whole of the grant, viz. £355,744, as referable to the unreduced area and accordingly deducted it from the £745,942 leaving £390,198 as the burden on the ratepayers for the unreduced area. They then deducted £17,293, viz. 4·482 per cent. of the rate-borne slice of the £745,942 (i.e. £745,942 less £355,744) and arrived at the same figure of £372,905 as the county council. This was inevitable as both sides deducted the whole of the £355,744. The county council, however, made this deduction in two slices, and the difference in method explains the fundamental difference in the views of the parties. This difference stands out when the "will be" calculation of the county borough is examined. They started by taking the figure of reduced expenditure for the reduced area, viz. £745,942 less £8,385, giving £737,557 in the same way as the county council. They then deducted the £355,744, leaving £381,813 as the "will be" burden on the ratepayers in the reduced area. Deducting £372,905 from this £381,813 they arrived at the figure of £8,908 as the increase of burden. The fact that they deducted the whole of the pre-alteration grant reflected their argument that after the alteration the whole grant must be treated as referable to the reduced area, not, as in the argument of the county council, 95·568 per cent. of it:—

*Held:* (i) the method adopted by the county council was correct and that the method adopted by the county borough was founded on a misapprehension as to the true meaning of the proviso; all that the proviso prohibited was the taking into account of an "alteration of income in consequence of an apportionment under the regulations"; the method adopted by the county council did not involve the taking into account of any such alteration; the alteration of income of the county council "in consequence of an apportionment under the regulations" reduced the General Exchequer Grant for the county from £355,744 to £344,484; the county council's calculation had nothing to do with that reduced figure; their method of dealing with the amount of the grant was not an apportionment of the grant in any relevant sense; all that they did was to ascertain the proportion of the grant referable (in the "would have been" calculation) to what afterwards became the reduced area and (in the "will be" calculation) to what in fact becomes the reduced area; the figure, therefore, of £339,977, representing the 95·568 per cent. of the grant, was an essential figure in the calculation since, without it, the amount by which 95·568 per cent. of the ratepayers are affected by the alteration of areas could not possibly be ascertained; the method adopted by the county borough never did arrive at this essential figure of £339,977, the reason being that it treated the whole of the grant of £355,744 as available for the relief of 95·568 per cent. of the ratepayers.

(ii) the Local Government Act, 1933, s. 151 (1), did not give the arbitrator power to award interest on any sum which he might award to the council in respect of the period between the appointed day and the date of the award; the language of the sub-section was limited to the making of the adjustment itself and did not extend to the addition of a sum by way of compensation for

any delay which might have taken place in arriving at the amount of the adjustment.

*Swift & Co. v. Board of Trade*, [1925] A. C. 520, *applied*.

*Decision of ATKINSON, J.*, ([1946] 1 All E. R. 276), *affirmed*.—MONMOUTH COUNTY *v.* NEWPORT COUNTY BOROUGH, NEWPORT COUNTY BOROUGH *v.* MONMOUTH COUNTY, [1946] 2 All E. R. 313; 175 L. T. 293; 110 J. P. 322; 62 T. L. R. 469; 90 Sol. Jo. 417; 44 L. G. R. 395, C. A. [4]

## BUILDING

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### ORDERS, CIRCULARS AND MEMORANDA

#### ORDER IN COUNCIL AMENDING REGULATION 56A OF THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O.*, 1946, No. 371

*March 20, 1946*

1. In paragraph (4) of Regulation fifty-six A of the Defence (General) Regulations, 1939, the words “ of the foregoing provisions ” shall be omitted, and after paragraph (6) of that Regulation there shall be inserted the following paragraphs :—

“(6A) A person guilty of an offence against this Regulation shall be liable—

- (a) on summary conviction to a fine not exceeding the maximum amount provided in the next following paragraph, or to imprisonment for a term not exceeding one year, or to both such fine and such imprisonment; or
- (b) on conviction on indictment to a fine not exceeding the maximum amount so provided, or to penal servitude for a term not exceeding seven years, or to both such fine and such penal servitude;

and shall in every case be ordered to pay such a fine as aforesaid, of an amount not less than the minimum amount provided in the next following paragraph, unless, having regard to any special circumstances, the court thinks there is good reason for not imposing a fine or for imposing a fine of a less amount.

(6B) The minimum and maximum amount of the fine referred to in paragraph (6A) of this Regulation shall, subject to the provisions of the three next following paragraphs, be as follows, that is to say,—

- (a) on summary conviction the minimum amount shall be the cost of the execution of the operation, or the carrying out of the work, in respect of which the offender is convicted or fifty pounds, whichever is the less, and the maximum amount shall be the said cost or five hundred pounds, whichever is the greater;

- (b) on conviction on indictment the minimum amount shall be the said cost or five hundred pounds, whichever is the less, and the maximum amount shall be three times the said cost or five thousand pounds, whichever is the greater.

(6c) Where the person convicted is a person who undertook the execution of part only of the operation, or the carrying out of part only of the work, in respect of which he is convicted, and is not the person at whose expense the operation was undertaken or the work carried out, for the cost referred to in paragraph (6B) of this Regulation there shall be substituted the cost of executing or carrying out so much of the operation or work as was executed or carried out by the person convicted.

(6D) Where the person convicted is an architect, engineer, or other person employed in an advisory or supervisory capacity in connection with the execution of part only of the operation, or the carrying out of part only of the work, in respect of which he is convicted, for the said cost there shall be substituted the cost of executing or carrying out so much of the operation or work as he was employed to advise on or supervise.

(6E) For the purposes of the four last foregoing paragraphs the cost of the execution of any operation or the carrying out of any work shall be reduced by the amount of any cost the incurring of which was lawful by virtue of the proviso to paragraph (1) or paragraph (2) of this Regulation or by virtue of any licence or authorisation in force under this Regulation, and the cost of the execution of any part of an operation or the carrying out of part of any work shall be reduced proportionately.

(6F) Where the court before which a person is convicted of an offence against this Regulation thinks it proper in all the circumstances of the case so to do, the court may, in addition to the imposition of any penalty, recommend that the Minister should exercise the powers conferred on him by Regulation fifty-six AB of these Regulations where such a recommendation is made.

(6G) Where proceedings for an offence against this Regulation are being carried on before a court of summary jurisdiction—

- (a) by or on behalf of the Minister ; or
- (b) by a person specified by an order made by the Minister and for the time being in force ; or
- (c) by or with the consent of the Director of Public Prosecutions,

the court shall not deal with the case summarily if it is certified by the Minister or the Director of Public Prosecutions, as the case may be, that there are circumstances which make it undesirable that the case should be dealt with summarily." [5]

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Note as to S. R. & O., 1946, No. 371.—Article 1 of this Order increases the penalties for contraventions of Regulation 56A of the Defence (General) Regulations, 1939, which subject to certain exemptions, prohibits the carrying out of building and civil engineering work without licence. The increased penalties are comparable with those which may be imposed for an offence against Regulation 55 of the 1939 Regulations or under the Defence (Price Control) Regulations, 1945, and include the power to impose large fines.

The court is also empowered to recommend to the Minister of Works that he should exercise his powers under Regulation 56AB of the Defence (General) Regulations, under which where such a recommendation is made he can revoke or suspend the registration of a builder or civil engineering contractor.

# ORDER IN COUNCIL AMENDING REGULATION 56AB OF THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O., 1946, No. 372*

*March 20, 1946*

- 1.—(1) For paragraphs (4) and (5) of Regulation fifty-six AB of the Defence (General) Regulations, 1939, there shall be substituted the following paragraphs :—

“(4) The Minister shall not, if an application in that behalf is duly made, refuse to grant a certificate of registration under this Regulation except where any such certificate previously granted to the applicant has been revoked, otherwise than under paragraph (7) of this Regulation, or where the applicant has been convicted of an offence against Regulation fifty-six A of these Regulations and the court before which he was convicted has recommended that the Minister should exercise the powers conferred on him by this Regulation where such a recommendation is made.

(5) If at any time while a certificate of registration under this Regulation is in force as respects any person the Minister is satisfied that the following requirements are not being complied with in the case of that person, namely—

(a) that where the terms and conditions of employment of persons employed in building undertakings or civil engineering contracting undertakings in any class of work in any district or on any site have been fixed by joint agreement in the industry or by arbitration, the terms and conditions of employment of persons employed in that class of work in that district or on that site in any building or civil engineering contracting undertaking carried on by the person to whom the certificate relates, being persons employed in any activity mentioned in sub-paragraphs (a), (b), (i) and (ii) of paragraph (2) of this Regulation, shall be neither more nor less favourable than the first-mentioned terms and conditions :

(b) that such conditions as to hours of employment (including conditions as to Sunday work) shall be observed in any such undertaking as the Minister may direct,

or if the person to whom the certificate relates is convicted of an offence against Regulation fifty-six A of these Regulations and the court before which he is convicted recommends that the Minister should exercise the powers conferred on him by this Regulation where such a recommendation is made, the Minister may revoke the certificate either generally or as respects the doing of work in a specified area or on a specified site, or direct that the operation of the certificate shall be suspended for a specified period, either generally or as respects the doing of work in a specified area or on a specified site.”

- (2) In accordance with the foregoing paragraph, in paragraphs (6) and (9) of the said Regulation fifty-six AB for the words “paragraph (4)” there shall be substituted the words “paragraph (5)”, and in the said paragraph (6) the words “withheld or” shall be omitted. [6]

2. Any provisional certificate of registration under the said Regulation in force immediately before the coming into operation of this Order shall have effect from the coming into operation thereof as if it were a certificate of registration granted under the said Regulation, and may be revoked or suspended in accordance with the provisions of that Regulation as amended by this Order. [7]



Note as to S. R. & O., 1946, No. 372.—*This Order amends Regulation 56AB of the Defence (General) Regulations, 1939. Under the Regulation as in force before the making of this Order, builders and civil engineering contractors were required to be registered thereunder, and except in the case of undertakings carried on at any time between May 1, 1939, and the coming into operation of the Regulation the Minister of Works had a discretion whether to allow registration or not. The Regulation provided, however, that a person was not to be registered unless the Minister was satisfied that he would observe the normal terms as to wages and conditions and hours of employment. There was machinery for the granting of provisional certificates while the Minister was satisfying himself as to these requirements. The Regulation provided that the Minister could revoke or suspend a certificate of registration if he ceased to be satisfied that the requirements were being complied with.*

*The first change made by the Order is that any applicant will, subject to what is said below, have the right to a certificate, whether he has carried on a relevant undertaking in the past or not. The granting of a certificate may, however, be refused if a previous certificate has been revoked. The requirements as to wages and conditions and hours of employment will be enforced not by withholding the grant of a certificate but by a power to suspend or revoke a certificate if they are not complied with. Accordingly provisional certificates will no longer be issued.*

*The other object of the Order is to add a ground for refusing, or revoking or suspending, a certificate, namely, that the applicant or holder has been convicted of a contravention of Regulation 56A (which restricts the carrying out of building without licence) and the Court before which he was convicted has recommended that action should be taken under this Regulation.*

*Article 2 of the Order contains the necessary transitional provisions as to existing provisional certificates.*

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## THE CONTROL OF BUILDING OPERATIONS (NO. 6) ORDER, 1946

*S. R. & O., 1946, No. 86*

*January 16, 1946*

This Order has been revoked by S. R. & O., 1946, No. 1150, *post*. It specified for the period from February 1, 1946, to July 31, 1946, the same limits of costs of building operations as are specified by the latter Order for the period from August 1, 1946, to January 31, 1947. Otherwise its terms were identical with those of S. R. & O., 1946, No. 1150. [8]

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## THE CONTROL OF BUILDING OPERATIONS (NO. 7) ORDER, 1946

*S. R. & O., 1946, No. 1150*

*July 19, 1946*

The Minister of Works in exercise of the powers conferred on him by Regulation 56A of the Defence (General) Regulations, 1939, and of all other powers enabling him in that behalf, hereby orders as follows:—

1. The sum prescribed under paragraph (c) of the proviso to paragraph (1) of Regulation 56A of the Defence (General) Regulations, 1939, is the sum of ten pounds. [9]

2.—(1) Any person may, without a licence from the Minister of Works under paragraph (2) of the said Regulation 56A, carry out on any single property, during any month in the period beginning with the first day of August, nineteen hundred and forty-six, and ending with the thirty-first day of January, nineteen hundred and forty-seven, any work to which this Article applies, if the cost of the work, together with the cost of any other such work previously carried out on that property during that month without such a licence as aforesaid, does not exceed the sum of two pounds.



(2) In addition to the work authorised by the foregoing paragraph of this Article, any person may, without such a licence as aforesaid, carry out on any single property during the said period any work to which this Article applies, if the cost of the work, together with the cost of any other such work previously carried out on that property during that period without such a licence as aforesaid (not being work authorised by the foregoing paragraph) does not exceed the sum of ten pounds.

(3) Where any work is carried out on premises occupied wholly or partly as a private dwelling or is carried out for the purpose of constructing, reconstructing or altering any premises for occupation wholly as a private dwelling, then, in computing for the purposes of this Article the cost of the work, the services of any person who does not receive any payment or other valuable consideration for those services, and the cost of any materials exclusively used by that person in performing those services, shall be disregarded.

(4) In this Article, the expression "month" means the month of August, September, October, November, December or January. [10]

3.—(1) Article 2 of this order applies to any work specified in Part III of the Sixth Schedule to the Defence (General) Regulations, 1939, and any maintenance work on a building or on any such works as are mentioned in Part II of that Schedule, except that it does not apply to any work carried out for a purpose specified in the first column of the Table set out in Part I of the said Schedule.

(2) In this order, the expression "a property" means, in relation to any work carried out at any time—

- (a) any property the full value of which was ascertained for the purposes of an assessment under Schedule A in force at that time; or
- (b) any property which, not being or forming part of a property to which sub-paragraph (a) of this paragraph applies, was at that time the subject of a valuation shown in the Valuation List for the time being in force under the Rating and Valuation Acts, 1925 to 1940, or the Rating and Valuation (Metropolis) Acts, 1869 to 1940, as the case may be; or
- (c) in a case where the work is carried out on property which is not and does not form part of a property to which sub-paragraph (a) or sub-paragraph (b) of this paragraph applies, the building or site on which the work is carried out, together with any land or building occupied with that building or site:

Provided that, where any building which would constitute a property for the purposes of this order comprises two or more parts which are occupied or constructed for occupation as separate dwellings, each of those parts shall be deemed to be a separate property for the said purposes and the remainder of the building shall also be deemed for the said purposes to be a separate property. [11]

4. The Control of Building Operations (No. 6) Order, 1946, is hereby revoked. [12]

5.—(1) This order may be cited as the Control of Building Operations (No. 7) Order, 1946.

(2) This order shall come into operation on the first day of August, nineteen hundred and forty-six. [13]

## EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

This order fixes the limits of cost that may be incurred, without an authorisation or licence under Regulation 56A of the Defence (General) Regulations, 1939, on building and civil engineering work.

The order continues for a further period of six months, that is to say, from August 1, 1946, to January 31, 1947, the limits of cost specified in S. R. & O., 1946, No. 86, which ceases to be in force after July 31, 1946.

Article 1 prescribes a limit of £10, which is the same throughout Great Britain for work carried out for certain purposes, of which the most important are the discharge of functions by local authorities and the carrying out of public utility undertakings. As regards other building and civil engineering work Article 2 allows £2 to be spent on a single property in any one month during the period from August 1, 1946, to January 31, 1947, and also an additional £10 to be spent at any time during that period, and for the purpose of computing the cost of work carried out on dwellings with unpaid labour the value of the labour and the cost of any materials used by such unpaid labour are disregarded. These limits also apply throughout Great Britain.

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## BURIAL AND CREMATION

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### CASES

*Burial*—*Burial ground*—*Right of burial board to charge for permission to cut inscriptions on gravestones*—"Monumental inscription"—*Burial Act, 1852 (c. 85), ss. 33, 34, 38.*

Under the Burial Act, 1852, s. 34, every burial board was empowered to fix and receive the sums to be paid for "the right of erecting and placing any monument, gravestone, tablet, or monumental inscription" in every burial ground provided by such board. It was contended by the plaintiff, a monumental mason, (i) that a burial board was not entitled to demand payment of any fee for permission to cut inscriptions on memorial stones or monuments; (ii) that the plaintiff was entitled to recover certain other fees which the board had no legal authority to make but which the plaintiff paid on demand, though under protest :—

*Held* : (i) upon the true construction of s. 34 of the 1852 Act, the words "monumental inscription" meant an inscription which appertains to a memorial to the dead. The burial board was, therefore, entitled to charge for permission to cut an inscription on memorial stones or monuments.

(ii) in regard to the sums paid by the plaintiff for charges which the burial board had no legal authority to make, the plaintiff was not entitled to recover back the sums because, on the facts of the case, he had paid them voluntarily although under protest.

*William Whiteley, Ltd. v. R.* (1909), 101 L. T. 741, and *Slater v. Burnley Corpn.* (1888), 59 L. T. 636, applied.

*Somes v. British Empire Shipping Co.* (1860), 8 H. L. Cas. 338, distinguished.—*TWYFORD v. MANCHESTER CORPN.*, [1946] Ch. 236; [1946] 1 All E. R. 621; [1947] L. J. R. 12; 175 L. T. 124; 110 J. P. 196; 62 T. L. R. 367; 90 Sol. Jo. 164; 44 L. G. R. 140. [14]

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## STATUTES

### BUILDING RESTRICTIONS (WAR-TIME CONTRA- VENTIONS) ACT, 1946

(9 & 10 Geo. 6, c. 35)

#### PRELIMINARY NOTE

During the course of the war many buildings and other works were erected on land and uses of land were begun which did not comply with building laws or with planning control. However, since these buildings and uses were connected with the prosecution of the war, many authorities responsible for enforcing the laws or planning control did not at the time exercise their statutory rights of objecting to such non-compliance and in some cases lost those rights on the termination of the periods limited by statute for taking steps to enforce them. This Act was therefore passed to deal with the situation which has thus arisen of the existence throughout the country of numerous buildings and other works on land which do not comply with building laws or planning control. It revives the rights of local authorities to take steps to enforce the laws or control, but, since it is highly desirable that owners of properties should know with the least possible delay whether or not their properties are to be affected, the Act lays down a period of five years within which a local authority must take steps for enforcement of a law or control.

S. 1 revives the rights of local authorities as to enforcement of building laws and planning control by providing that, where during the war period works have been carried out on land which do not comply with building laws, any period of time limiting the taking of steps for enforcing the law shall be calculated without regard to the time elapsing during the war period, or to any time elapsing after the end of that period during which the building law is unenforceable because the land is in the possession or ownership of the Crown (sub-s. (1)). Where during the war period works have been carried out on land or a use of land begun, by or on behalf of the Crown, which do not comply with building laws or planning control, and the land has been leased by the Crown for a period of more than ten years, the local authority may take steps to enforce the laws or control (sub-s. (2)).

S. 2 enables an owner, occupier or prospective purchaser of land to make application within a period of five years from the end of the war period to the authority responsible for enforcing any building law or planning control to determine whether there has been any failure to comply with a law or control (sub-ss. (1) and (4)). Where the authority determine that there has been such a failure, they shall further determine whether the works or use shall, notwithstanding the failure, be deemed so to comply, either unconditionally, or subject to such conditions as to the time for which the works or use may be continued, the carrying out of alterations, or other matters, as the authority think expedient (sub-s. (3)). In certain circumstances an authority shall be deemed to have refused to entertain an application (sub-s. (7)) and, in that event, or when he is aggrieved by a determination of an authority, an applicant may appeal to the Minister of Health, who is empowered at any stage of the proceedings on such an appeal to state in the form of a special case for the opinion of the High Court any question of law arising in connection with the appeal (sub-s. (8)). There is provision for making a subsequent application if the authority or on appeal the Minister of Health is satisfied that there has been a material change of circumstances since the previous application was determined (sub-s. (9)). The Minister of Town and Country Planning may direct local authorities to refer to the Minister of Health any applications in respect of non-

compliance with planning control and may also direct them to furnish him with information in connection with applications received by them (sub-ss. (10) and (11)).

S. 3 contains a number of additional provisions relating to the enforcement of building laws and planning control. Among these is a provision that twenty-eight days' notice of a proposal to take steps to enforce a building law or planning control must, unless an application under s. 2 is pending, be served on the owner or occupier of the land affected. If within the period of twenty-eight days an application in relation to the land is made under s. 2, and notice thereof given within seven days to the person proposing to take the steps for enforcement, no such steps shall be taken until final determination of the application. No notice is required under this section if steps for enforcement are begun within twenty-eight days of the final determination of an application (sub-s. (1)). An application is to be treated as having been finally determined for the purposes of this section notwithstanding that a subsequent application may be made in accordance with s. 2 (9) on the ground of a material change of circumstances (sub-s. (7)). The time within which a notice of irregularity may be served under s. 89 (2) of the London Building Acts (Amendment) Act, 1939 (32 Halsbury's Statutes 437), in respect of works carried out during the war period is to be twelve months from the end of the period or the time limited by the sub-section, namely, three weeks from the discovery of the erection of the building, whichever is the later (sub-s. (4)).

S. 4 provides that where any works on land carried out, or use of land begun, during the war period remain or continue after the expiration of five years from the end of that period and no determination has been given under the Act whether the works or use fail to comply with any building law or planning control, they are then to be treated as complying therewith, unless steps for enforcing the law or control have been begun before the expiration of the five year period.

S. 5 of the Act empowers any officer of an authority which is responsible for enforcing a building law or planning control at any time within the five year period to enter any premises for the purpose of discovering any instances of non-compliance with laws or control, or where an application has been made under s. 2, for the purpose of obtaining any information required by the authority for the exercise of their functions in connection with the application. S. 6 contains provisions as to service of notices and s. 7 is an interpretation section. [15]

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*An Act to make provision as respects works on land carried out during the war period, and uses of land begun during that period, which do not comply with building laws or planning control.* [16] [26th March, 1946.]

**1. Enforcement after end of war period of building laws and planning control.**—(1) Where during the period beginning with the third day of September, nineteen hundred and thirty-nine, and ending with the commencement of this Act (in this Act referred to as the "war period") works on land have been carried out which do not comply with a building law, any period of time limiting the taking of steps for enforcing the law shall be

calculated without regard to time elapsing during the war period or to time elapsing after the end of that period during which, notwithstanding the provisions of the next following subsection, the building law is unenforceable by reason of the subsistence in or over the land of any interest or right to possession held by or on behalf of the Crown. [17]

(2) Where during the war period works on land not complying with a building law or with planning control have been carried out, or a use of land not complying with planning control has been begun, by or on behalf of the Crown, and at any time after the end of the war period there subsists in the land a permanent or long-term interest which is neither held by or on behalf of the Crown nor subject to any interest or right to possession so held, the building law or planning control, as the case may be, shall, so long as such a permanent or long-term interest subsists in the land, be enforceable in respect of the said works or use of land notwithstanding that the works were carried out or the land used by or on behalf of the Crown and notwithstanding the subsistence in the land of any interest held by or on behalf of the Crown in reversion (whether immediate or not) expectant on the termination of the said permanent or long-term interest. [18]

(3) In this section the expression "permanent or long-term interest" means in relation to any land the fee simple therein, a tenancy thereof granted for a term of more than ten years and not subject to a subsisting right of the landlord to determine the tenancy at or before the expiration of ten years from the beginning of the term, or a tenancy granted for a term of ten years or less with a right of renewal which would enable the tenant to prolong the term thereof beyond ten years. [19]

(4) For the purposes of this section, the question whether at any time a tenancy is or was subject to a subsisting right of the landlord to determine the tenancy at or before the expiration of ten years from the beginning of the term shall, if—

(a) whether by virtue of the Validation of War-Time Leases Act, 1944, or otherwise the tenancy is or was subject to a right of the landlord to determine the tenancy at or before the expiration of any period from the happening of any such event as is mentioned in subsection (2) of section one of the said Act of 1944, and

(b) the event in question has or had not happened at the said time, be determined as if the event had happened immediately before the said time. [20]

(5) In this section the expression "tenancy" includes a tenancy under an under-lease and a tenancy under an agreement for a lease or under-lease, but does not include an option to take a tenancy and does not include a mortgage. [21]

*Time for taking steps for enforcing law.*—See s. 65 (1) of the Public Health Act, 1936 (29 Halsbury's Statutes 376), which empowers a local authority by notice to require the demolition, removal or alteration of work not in conformity with byelaws, and sub-s. (4) thereof (*ibid.* 377), which requires the notice to be given within twelve months from the completion of the work.

*Authority responsible for enforcing planning control: Non-compliance with building law or planning control: Enforcement of building law or planning control.*—For meanings of these expressions, see s. 7, *post*.

*Definitions.*—For definitions of "building law," "owner," "works," see s. 7, *post*.

*General note on section.*—This section revives the rights of local authorities, which lapsed through non-enforcement during the war, to object to buildings and uses of land not complying with building laws or planning control. The laws and control can be enforced not only in respect of privately owned land but also in respect of land which has been leased by the Crown for more than ten years. Steps for enforcement must, in accordance with s. 4, *post*, be taken within five years from the passing of the Act, after which time the buildings or use are to be treated as complying with the law or control.

**2. Power to sanction war-time non-compliance with building laws or planning control.**—(1) At any time before the expiration of five years from the end of the war period, a person entitled to make an application under this subsection with respect to any land may apply to an authority responsible for enforcing any building law or planning control for a determination under this section with respect to works on the land carried out, or a use of the land begun, during the war period. [22]

(2) Upon an application being made to them under the last foregoing subsection, the authority shall determine whether the works or use fail to comply with any building laws or planning control which they are responsible for enforcing, and if so shall specify the law or control in question. [23]

(3) Where the authority determine that works or a use fail to comply as aforesaid they shall further determine whether having regard to all relevant circumstances the works or use shall, notwithstanding the failure, be deemed so to comply, either unconditionally or subject to such conditions as to the time for which the works or use may be continued, the carrying out of alterations, or other matters, as the authority think expedient. [24]

(4) An application under subsection (1) of this section may be made with respect to any land by the owner or occupier thereof, or by any person who proves that he has or intends to acquire an interest in the land which will be affected by a determination given on such an application or that he has borne any of the cost of carrying out works on the land during the war period. [25]

(5) In the case of land owned or occupied by or on behalf of the Crown, or leased to, or to a person acting on behalf of, the Crown, or land with respect to which it is proved that there is held, or intended to be acquired, by or on behalf of the Crown an interest in the land which will be affected as aforesaid or that any such cost as aforesaid has been borne by the Crown, an application under subsection (1) of this section may be made by any person acting on behalf of the Crown. [26]

(6) An application under subsection (1) of this section shall be accompanied by such plans and other information as are necessary to enable the application to be determined. [27]

(7) The authority to whom an application under subsection (1) of this section is made shall within fourteen days from the receipt of the application publish notice thereof in one or more local newspapers circulating in the area in which the land is situated and serve notice thereof on any person appearing to the authority to be specially affected by the application, and shall take into consideration any representations made to them in connection with the application within fourteen days from the publication of the notice; and if within two months from the last day on which such representations may be made the authority have failed to determine the application, the applicant may serve notice on the authority that he appeals to the Minister of Health, and thereupon the authority shall be deemed to have refused to entertain the application. [28]

(8) Where the applicant is aggrieved by a determination given by an authority under this section or by the refusal of an authority to entertain an application made thereunder, or where a person by whom representations have been made as mentioned in the last foregoing subsection is aggrieved by such a determination, he may within the period of twenty-eight days after he has notice of the determination or refusal, or such extended period as the Minister of Health may allow, appeal to that Minister, and that Minister may give, in substitution for the determination, if any, given by the authority, such determination as appears to him to be proper having regard to all relevant circumstances, or, if he is satisfied that the applicant was not a



person entitled to make the application, may decide that the application is not to be entertained :

Provided that at any stage of the proceedings on such an appeal to him the Minister may, and shall if so directed by the High Court, state in the form of a special case for the opinion of the High Court any question of law arising in connection with the appeal. [29]

(9) Subject as hereinafter provided and to any determination or decision of the Minister of Health on an appeal under the last foregoing subsection, any determination given by an authority under this section and any refusal of an authority to entertain an application for such a determination shall be final, and any such determination or decision of the Minister shall be final :

Provided that where a determination has been given under subsection (3) of this section that works on land or a use of land shall not be deemed to comply with a building law or planning control or shall be deemed to comply therewith subject to conditions, then if a person entitled to make an application under subsection (1) of this section with respect to the land satisfies the authority or on appeal the Minister of Health that there has been a material change of circumstances since the previous application was determined, he may make a subsequent application under the said subsection (1) and on such an application the authority or on appeal the Minister may substitute for the determination such determination under subsection (3) of this section as appears proper having regard to all relevant circumstances. [30]

(10) If it appears to the Minister of Town and Country Planning that it is expedient, having regard to considerations affecting the public interest, whether generally or in the locality concerned, that any application under subsection (1) of this section to an authority responsible for enforcing planning control, or any class or description of such applications, should instead of being determined by the authority be referred to the Minister of Health for decision, the Minister of Town and Country Planning may give directions to the authority requiring that application, or applications of that class or description, to be so referred, and this section shall apply to any such reference as if it were an appeal under subsection (8) of this section from a refusal of the authority to entertain the application. [31]

(11) The Minister of Town and Country Planning may give directions to any authority responsible for enforcing planning control requiring them to furnish him with such information with respect to applications under subsection (1) of this section received by them as he considers necessary or expedient in connection with the exercise of his functions under this section. [32]

(12) On any application or appeal under this section the applicant, or in the case of an application referred to the Minister of Health for decision or in the case of an appeal to that Minister the applicant or the authority responsible for enforcing the building law or planning control in question, may require the authority or Minister by whom the application or appeal is to be determined to afford him or them an opportunity before the application or appeal is determined of appearing before and being heard by a person appointed by the authority or the Minister for the purpose. [33]

*Effect of section.*—See Preliminary Note, *ante*.

*Five years from end of war period.*—For calculation of the period of five years, see s. 7, *post*.

*Authority responsible for enforcing planning control : Non-compliance with building law or planning control : Enforcement of building law or planning control.*—For meanings of these expressions, see s. 7, *post*.

*Application.*—No steps to enforce a building law or planning control may be taken until the final determination of an application made under this section (see s. 3, *post*).

*Refusal to entertain application.*—Under sub-s. (7) the local authority, has a maximum period of three months from the receipt of an application within which to determine it. If no determination has been given within that period, the authority shall be deemed to have refused to entertain the application and an appeal from such refusal thereupon lies to the Minister of Health under sub-s. (8).

*Appeal to the Minister of Health.*—The reason for making the Minister of Health responsible for hearing appeals was given by that Minister in moving the Second Reading of the Bill (415 H. of C. Official Report 922) as follows :—

“ The reason why the Ministry of Health is chosen in these circumstances is that at the end of the last war it was the Local Government Board which acted in this capacity, and the Ministry is a descendant of that Department. A large number of other Departments are also involved, but for the purpose of simplicity the Ministry of Health are designated by the Bill as the Ministry responsible for listening to, and deciding upon, appeals.”

An appeal to the Minister of Health may be made either by an applicant who is aggrieved by a determination of an authority or by the refusal of the authority to entertain his application, or by a person who has made representations to an authority under sub-s. (7) and is aggrieved by the authority's determination. The appeal must be made within twenty-eight days after receipt of notice of determination or refusal, or within such extended time as the Minister of Health may allow.

*Minister of Town and Country Planning.*—Under sub-s. (10) the Minister of Town and Country Planning may require a local authority to refer an application involving planning control to the Minister of Health instead of themselves dealing with the application.

*Definitions.*—For definitions of “ building law,” “ owner,” “ works,” see s. 7, *post*, and for definition of “ war period,” see s. 1, *ante*.

**3. Supplementary provisions as to enforcement.**—(1) Where during the period of five years beginning with the end of the war period any person proposes to take steps for enforcing a building law or planning control in the case of works on land not complying with the law or control in question carried out during the war period, or a use of land not complying with the planning control in question begun during that period, then—

- (a) unless an application under the last foregoing section in relation to the land has been made which has not been finally determined, he shall serve on every owner and occupier of the land not less than twenty-eight days' notice of the proposal, and if within the said period of twenty-eight days any person makes an application under the last foregoing section in relation to the land and within seven days of the making thereof serves on the person proposing to take steps as aforesaid notice that the application has been made, no steps for enforcing the law or control shall be taken until the final determination of the application ;
- (b) if such an application has been made which has not been finally determined, no such steps shall be taken until the final determination thereof :

Provided that no notice shall be required under paragraph (a) of this subsection if steps for enforcing a building law or planning control in the case of any works on land are begun within twenty-eight days of the final determination of an application under the last foregoing section in relation to the land. [34]

(2) In calculating any period of time limiting the taking of steps for enforcing a building law, any period during which the taking of such steps is delayed by the operation of the last foregoing subsection shall be disregarded. [35]

(3) Where a determination under subsection (3) of section two of this Act that works or a use of land shall be deemed to comply with a building law has been given subject to any condition as to time or otherwise, and the determination ceases to have effect by reason of the time expiring or the condition not being, or ceasing to be, complied with, any period of time limited for enforcing the law—

- (a) where apart from this and the next following subsection it would run from the date on which the works were carried out or the use was begun, shall run from the date on which the determination ceased to have effect ;



(b) where apart from this and the next following subsection it would run from the discovery that the works had been carried out or the use had been begun, shall run from the discovery that the determination has ceased to have effect. [36]

(4) Subject to the provisions of subsection (1) of section one of this Act and of the two last foregoing subsections, the time within which a notice of irregularity may be served under subsection (2) of section eighty-nine of the London Building Acts (Amendment) Act, 1939, in respect of works carried out during the war period shall be the expiration of twelve months from the end of that period or the time limited by the said subsection (2), whichever is the later. [37]

(5) No proceedings for the recovery of a fine or other penalty shall be brought against any person for having carried out during the war period works on land which do not comply with a building law :

Provided that this subsection shall not affect proceedings for the recovery of expenses incurred in taking steps for enforcing a building law. [38]

(6) Where works on land carried out during the war period do not comply with a building law, steps for enforcing the law may, notwithstanding anything in any enactment, be taken without previous conviction of any person of a contravention of the law. [39]

(7) For the purposes of this section, an application shall be treated as having been finally determined notwithstanding that under the proviso to subsection (9) of the last foregoing section a subsequent application may be made under subsection (1) thereof. [40]

*Effect of section.*—See Preliminary Note, *ante*.

*Period of five years.*—For calculation of this period, see s. 7, *post*.

*Enforcement of building law or planning control : Non-compliance with building law or planning control.*—For meanings of these expressions, see s. 7, *post*.

*Application.*—Notice of a proposal to take steps for enforcement need not be given if an application under s. 2 is pending, but no such steps can be taken until the application has been finally determined. See sub-s. (7) as to when an application shall be treated as having been finally determined for the purposes of this section. No notice under the section is required if steps for enforcement are taken within twenty-eight days from the final determination of an application. The object of the twenty-eight days' notice is to give the owner or occupier or person interested in the property an opportunity of making an application under s. 2, *ante*. Notice of the making of this application must be given to the person proposing to take the steps for enforcement, since, if that person were not the local authority, he would, apart from this requirement, not necessarily know that an application had been made (see 417 H. of C. Official Report 1215).

*London Building Acts (Amendment) Act, 1939, s. 89 (2).*—32 Halsbury's Statutes 437. Under that sub-section the District Surveyor may, within twenty-one days after discovery of the erection of a building of which notice of intention to erect had not been given, serve a notice of irregularity. Sub-s. (4), *supra*, makes provision for a period of twelve months from the end of the war period or the time limited by s. 89 (2) (*supra*), whichever is the later, for the service of this notice. It will be noted that the period of twelve months is the same period as is allowed under s. 65 (4) of the Public Health Act, 1936 (29 Halsbury's Statutes 377), to provincial local authorities for the service of a notice requiring the removal or alteration of works not in conformity with byelaws. See notes to s. 1, *ante*.

*Definitions.*—For definitions of "building law," "owner," "works," see s. 7, *post*, and for definition of "war period," see s. 1, *ante*.

**4. Limitation of time for enforcement, as respects war period, of building laws and planning control.**—(1) Where any works on land carried out, or use of land begun, during the war period remain or continues after the expiration of five years from the end of that period, and no determination has been given under this Act whether the works or use fail to comply with any building law or planning control, the works or use shall by virtue of this section be treated for all purposes as complying therewith unless steps for enforcing the law or control have been begun before the expiration of the said five years. [41]

(2) Where works on land not complying with planning control have been carried out at any time during the war period and before the commencement

of the Town and Country Planning (Interim Development) Act, 1943, or a use of land not complying with planning control has been begun at any such time, and the land is in an area with respect to which a resolution to prepare or adopt a scheme under the Town and Country Planning Act, 1932, was in force at the time when the works were carried out or the use was begun, then if the authority responsible for enforcing planning control are satisfied, at any time before the expiration of five years from the end of the war period while such a resolution is in force with respect to the area and the works remain on the land or the use of the land continues, that it is necessary or expedient to exercise the powers conferred by this subsection having regard to the provisions then proposed to be included in the scheme, the said authority may by notice served on every owner and occupier of the land direct that subsection (1) of this section shall not, so far as concerns planning control, have effect in relation to the works or use of land. [42]

*Effect of section.*—See Preliminary Note, *ante*.

*Five years.*—For calculation of this period, see s. 7, *post*.

*Determination under the Act.*—See s. 2, *ante*.

*Authority responsible for enforcing planning control: Non-compliance with building law or planning control: Enforcement of building law or planning control.*—For meanings of these expressions, see s. 7, *post*.

*Town and Country Planning (Interim Development) Act, 1943.*—36 Halsbury's Statutes 239.

*Town and Country Planning Act, 1932.*—25 Halsbury's Statutes 470. For resolution to prepare or adopt a scheme under this Act, see s. 6 (*ibid.* 475).

*Sub-s. (2).*—The explanation of this sub-section was given by the Parliamentary Secretary to the Ministry of Health in the course of the Debate in Committee (H. of C. Official Report, S.C.C., November 13, 1945, col. 15) as follows:—

"If the works were erected or carried out subsequent to the passing of the Town and Country Planning (Interim Development) Act, 1943, the Ministry of Town and Country Planning has powers of an unlimited character for an unlimited time in the matter. In the case of buildings put up before that date, planning control can be enforced only if a planning scheme has already come into operation for that area. It is thought that in a number of cases schemes will have been prepared and brought into force before the five years here involved have passed. Accordingly, sub-s. (2) has been put in, in order that the planning authority may have at their disposal the same machinery for getting the question whether a non-conforming building should be allowed to remain decided before the five years are up, as would be available for a planning control if the building had been put up after the coming into operation of the Act of 1943. It therefore puts into the comparable, if not identical, positions the building work that was done before 1943, and what was carried out after 1943."

*Definitions.*—For definitions of "building law," "owner," "works," see s. 7, *post*, and for definition of "war period," see s. 1, *ante*.

**5. Power of entry.**—(1) During the period of five years beginning with the end of the war period, any officer of an authority responsible for enforcing a building law or planning control shall, on producing, if so required, some duly authenticated document showing his authority to act for the purposes of this section, have a right, subject to the provisions of this section, to enter any premises at all reasonable hours—

- (a) for the purpose of ascertaining whether there are on the premises any works carried out during the war period which do not comply with a building law or with planning control, or whether a use of the premises continues which was begun during that period and does not comply therewith;
- (b) where an application has been made to the authority under section two of this Act, for the purpose of obtaining any information required by the authority for the exercise of their functions under that section in relation to the application:

Provided that admission to any premises which are occupied shall not be demanded as of right unless twenty-four hours' notice of the intended entry has been served on the occupier. [43]

(2) Any person who wilfully obstructs any officer of an authority acting in the exercise of his powers under this section shall be liable on summary conviction to a fine not exceeding five pounds. [44]

(3) If any person who in compliance with the provisions of this section is admitted into a factory, workshop or workplace, discloses to any person any information obtained by him in the factory, workshop or workplace with regard to any manufacturing process or trade secret, he shall, unless such disclosure was made in the performance of his duty, be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months. [45]

*Effect of section.*—See Preliminary Note, *ante*.

*Period of five years.*—For calculation of this period, see s. 7, *post*.

*Authority responsible for enforcing planning control:* *Non-compliance with building law or planning control: Enforcement of building law or planning control.*—For meanings of these expressions, see s. 7, *post*.

*Definitions.*—For definitions of “building law,” “works,” see s. 7, *post*, and for definition of “war period,” see s. 1, *ante*.

**6. Service of notices.**—(1) Any notice or other document required or authorised to be served under this Act may be served on any person either by delivering it to him, or by leaving it at his proper address, or by post. [46]

(2) Any such document required or authorised to be served upon an incorporated company or body shall be duly served if it is served upon the secretary or clerk of the company or body. [47]

(3) For the purposes of this section and of section twenty-six of the Interpretation Act, 1889, the proper address of any person upon whom any such document as aforesaid is to be served shall, in the case of the secretary or clerk of any incorporated company or body be that of the registered or principal office of the company or body, and in any other case be the last known address of the person to be served. [48]

(4) If it is not practicable after reasonable enquiry to ascertain the name or address of an owner or occupier of land on whom any such document as aforesaid is to be served, the document may be served by addressing it to him by the description of “owner” or “occupier” of the premises (describing them) to which it relates, and by delivering it to some person on the premises or, if there is no person on the premises to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises. [49]

*Interpretation Act, 1889, s. 26.*—18 Halsbury’s Statutes 1002. This section defines “service by post.”

*Owner.*—For definition, see s. 7, *post*.

**7. Interpretation.**—(1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say—

“authority responsible for enforcing planning control” means—

(a) in relation to land subject to a resolution to prepare or adopt a scheme under the Town and Country Planning Act, 1932, the council of a county, county borough or county district, or joint committee, empowered by an interim development order to permit the development of the land;

(b) in relation to land subject to such a scheme, the authority responsible for enforcing the relevant provisions of the scheme;

“building law” means any obligation or restriction as to the construction, nature or situation of works on land or as to any other circumstances of such works (including the use of the land) having effect by virtue of—

(a) any enactment contained in Part II or IV of the Public Health Act, 1936, or byelaws made under any such enactment,

(b) any enactment contained in Part II or III of the Public Health (London) Act, 1936, or byelaws made under any such enactment,

(c) the London Building Acts, 1930 to 1939, or byelaws made thereunder,

(d) section one hundred and fifty-seven of the Public Health Act, 1875, or subsection (2) of section one hundred and forty of the Housing Act, 1936, or byelaws made thereunder,

(e) the Public Health (Buildings in Streets) Act, 1888,

(f) the Roads Improvement Act, 1925,

(g) sections thirty to thirty-four of the Public Health Act, 1925,

(h) the Restriction of Ribbon Development Act, 1935, or

(i) any enactment in a local Act made for purposes similar to the purposes of any of the said Acts, or any byelaws made under any such enactment ;

“ local Act ” includes an Act confirming a provisional order ;

“ owner ” has the same meaning as in the Housing Act, 1936, and “ owned ” shall be construed accordingly ;

“ war period ” has the meaning assigned to it by subsection (1) of section one of this Act ;

“ works ” includes any building, structure, excavation or other work on land. [50]

(2) References in this Act to non-compliance with a building law mean, in relation to any works on land, that the construction, nature or situation of the works or any other circumstances thereof (including the use of the land) are such either that the works do not comply with the building law in question or that by virtue of that law the rejection of plans for the works is expressly required or authorised ; and references in this Act to compliance with a building law shall be construed accordingly. [51]

(3) References in this Act to non-compliance with planning control mean—

(a) in relation to works on land carried out, or a use of land begun, at a time when the land was subject to a resolution to prepare a scheme under the Town and Country Planning Act, 1932, that the works were carried out or the use begun otherwise than in accordance with the terms of an interim development order or of permission granted under such an order ;

(b) in relation to works on land carried out, or a use of land begun, at a time when the land was subject to such a scheme, that the works were carried out or the use begun otherwise than in conformity with the provisions of the scheme ;

and references in this Act to compliance with planning control shall be construed accordingly. [52]

(4) References in this Act to the enforcement of a building law shall be construed as references to securing (whether by the doing of work on land or the requiring, by injunction or otherwise, that some other person shall do work on land) that works on land not complying with the building law in question shall either be demolished or removed, or be altered so as to comply therewith. [53]

(5) References in this Act to the enforcement of planning control shall be construed as references to the exercise of the powers conferred by section thirteen of the Town and Country Planning Act, 1932 (which gives power to remove, pull down or alter buildings or works not conforming with a scheme

under that Act, and to prohibit a use of land not conforming with such a scheme) or by section five of the Town and Country Planning (Interim Development) Act, 1943 (which gives similar powers to enforce interim development control). [54]

(6) In calculating for any of the purposes of this Act the period of five years from the end of the war period there shall be disregarded any time during which, notwithstanding the provisions of subsection (2) of section one of this Act, a building law or planning control is unenforceable by reason of the subsistence in or over land of any interest or right to possession held by or on behalf of the Crown. [55]

*Town and Country Planning Act, 1932.*—25 Halsbury's Statutes 470. For s. 13, see *ibid.* 486.

*Public Health Act, 1936.*—29 Halsbury's Statutes 309. For Part II, see *ibid.* 333, and for Part IV, see *ibid.* 407.

*London Building Acts, 1930 to 1939.*—These are the London Building Act, 1930 (23 Halsbury's Statutes 213), the London Building Act (Amendment) Act, 1935 (28 Halsbury's Statutes 139), and the London Building Acts (Amendment) Act, 1939 (32 Halsbury's Statutes 388).

*Public Health Act, 1875, s. 157.*—13 Halsbury's Statutes 689.

*Housing Act, 1936, s. 140 (2).*—29 Halsbury's Statutes 661.

*Public Health (Buildings in Streets) Act, 1888.*—13 Halsbury's Statutes 810.

*Roads Improvement Act, 1925.*—9 Halsbury's Statutes 219.

*Public Health Act, 1925, ss. 30–34.*—13 Halsbury's Statutes 1126–1130.

*Restriction of Ribbon Development Act, 1935.*—28 Halsbury's Statutes 79, 275.

*Owner.*—S. 188 of the Housing Act, 1936 (29 Halsbury's Statutes 680) provides that "owner," in relation to any building or land, means a person other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple of the building or land, whether in possession or in reversion, and includes also a person holding or entitled to the rents and profits of the building or land under a lease or agreement, the unexpired term whereof exceeds three years.

*Town and Country Planning (Interim Development) Act, 1943, s. 5.*—36 Halsbury's Statutes 245.

## 8. Application to Scotland. [56]

## 9. Application to Northern Ireland. [57]

10. **Short title.**—This Act may be cited as the Building Restrictions (War-Time Contraventions) Act, 1946. [58]

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## CASES

*Corporation—Byelaws—Validity—Repugnancy to general law—Byelaw prohibiting betting in public places—Street Betting Act, 1906 (c. 43), ss. 1 (1), (4), 2—Betting and Lotteries Act, 1934 (c. 58), ss. 2 (1), 20.*

*Gaming and Wagering—Betting in public place—Byelaw repugnant to general law—Street Betting Act, 1906 (c. 43), ss. 1 (1), (4), 2—Betting and Lotteries Act, 1934 (c. 58), ss. 2 (1), 20.*

A race meeting, confined to horse racing, was held in a field which was neither an approved racecourse nor a licensed track. The notice required by the Betting and Lotteries Act, 1934, s. 2, had been given to the chief constable of the county and bookmaking had been carried on in the field on one day only during the previous twelve months. The field was part of a farm adjacent to the highway and was enclosed on all sides by a hedge, but there was one gateway opening on to the highway through which the public obtained access to the field on payment of a fee. A number of bookmakers were present, including the appellant, who there carried on the business of bookmaking. The appellant was convicted by a court of summary jurisdiction under a byelaw made by the local county council and on appeal to quarter sessions the conviction was confirmed subject to the opinion of the court as to whether the decision was right in point of law. The byelaw,

which was made under the Municipal Corporations Act, 1882, s. 23, was, for all essential purposes, in the same terms as those in the Street Betting Act, 1906, s. 1 (1). It did not, however, provide, as does the Street Betting Act, 1906, s. 1 (4), that, in the case of an enclosed space, betting was only unlawful if at or near every public entrance there was conspicuously exhibited by the owners or persons having the control of the place a notice prohibiting betting therein. No such notice was exhibited on this occasion :—

*Held*: the byelaw was repugnant to both the Street Betting Act, 1906, and the Betting and Lotteries Act, 1934, which, in effect, permit bookmakers to bet at race meetings provided they observe certain conditions; and it was beyond the powers of the county council to enact a byelaw which prohibited them from doing that which the general statutes enabled them to do. The conviction should, therefore, be quashed.—*POWELL v. MAY*, [1946] K. B. 330; [1946] 1 All E. R. 444; 115 L. J. K. B. 236; 174 L. T. 275; 110 J. P. 157; 62 T. L. R. 250; 90 Sol. Jo. 223; 44 L. G. R. 126, D. C. [59]

## DISEASE

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## ORDERS, CIRCULARS AND MEMORANDA

### THE PUBLIC HEALTH (TUBERCULOSIS) REGULATIONS, 1946

*S. R. & O., 1946, No. 1965*

*November 21, 1946*

The Minister of Health in exercise of the powers conferred on him by the Public Health Act, 1936, and of all other powers enabling him in that behalf, hereby makes the following regulations :—

1.—(1) These regulations may be cited as the Public Health (Tuberculosis) Regulations, 1946.

(2) These regulations shall come into force on the first day of December, 1946. [60]

2. The Public Health (Tuberculosis) Regulations, 1942, are hereby revoked. [61]

\* \* \* \* \*

### EXPLANATORY NOTE

*(This Note is not part of the Regulations, but is intended to indicate their general purport.)*

Article 10 of the Public Health (Tuberculosis) Regulations, 1930, requires Medical Officers of Health to keep a register of the particulars contained in notifications sent to them of cases in which tuberculosis is diagnosed. The regulations which are now being revoked provided for the rendering to the Ministry of Labour and National Service of returns with respect to entries in those registers relating to women in certain age groups.



Circular 8/46

1. *County Councils (provincial).*
2. *Councils of Boroughs, Urban Districts and Rural Districts (other than such as are Welfare Authorities) (England).*

MINISTRY OF HEALTH,  
WHITEHALL,  
LONDON, S.W.1.  
18th January, 1946.

SIR,

## DIPHTHERIA IMMUNISATION

I am directed by the Minister of Health to refer to Circulars 193/45 and 194/45 and to say that it has come to his notice that some doubt exists about the position concerning expenditure on arrangements for immunisation between a County Council, as a Welfare Authority, and the Council of a county district within the area for which the County Council is the Welfare Authority, where, in consequence of Circular 194/45, the County Council (as Welfare Authority) now becomes responsible for immunisation of children under school age and where the District Council has hitherto carried out immunisation in its capacity as Health Authority under arrangements which justify continuation.

The matter is not one in which the Minister is in a position to give a ruling or to issue directions. He would, however, offer the following guidance. As stated in paragraph 5 of Circular 194/45, it is not desired that the transfer of primary responsibility to the Welfare Authority should necessarily disturb any existing local arrangements which have proved effective, and are likely to continue to do so, in securing the immunisation of a high proportion of children under the age of five. It would nevertheless be desirable, in the Minister's view, that expenditure specifically involved in maintaining these arrangements for children under five (*e.g.* fees to doctors for performing immunisation sessionally or in individual cases), and hitherto borne by the District Council, should in future be borne by the County Council as Welfare Authority. This appears to the Minister both reasonable in itself and also proper from the standpoint of obviating such inequalities of financial liability for this service between County Districts in the same county welfare area as may otherwise result from the varying extent to which, in different districts, the County Council may find it necessary to increase the existing provision, or in some instances, to assume full and direct charge of the arrangements.

An additional copy of the Circular is enclosed for the Financial Officer of the Council. [62]

I am, Sir, etc.

\* \* \* \*

The Town Clerk,

or

The Clerk of the Council.

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## EDUCATION

See SPECIAL EDUCATION VOLUME.

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## EDUCATION AUTHORITY

See SPECIAL EDUCATION VOLUME.

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## EDUCATION FINANCE

See SPECIAL EDUCATION VOLUME.

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# ELECTIONS

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## ORDERS, CIRCULARS AND MEMORANDA . THE ELECTORAL REGISTRATION REGULATIONS, 1946

*S. R. & O., 1946, No. 240*

*February 4, 1946\**

These Regulations revoke and replace the Electoral Registration Regulations, 1944, the Electoral Registration Regulations, 1945, and the Electoral Registration (No. 2) Regulations, 1945.

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\* These Regulations having lain before both Houses of Parliament in accordance with s. 20 of the Parliamentary Electors (War-Time Registration) Act, 1943, s. 37 of the Representation of the People Act, 1945, and sub-s. (1) of s. 18 of the Elections and Jurors Act, 1945, were approved by resolution of the House of Lords on February 19, 1946, and by resolution of the House of Commons on February 18, 1946.



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## PART I

## PRELIMINARY

1. **Short title, citation, interpretation and commencement.**—(1) These regulations may be cited as the Electoral Registration Regulations, 1946.

(2) The Interpretation Act, 1889, shall apply to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

(3) These regulations shall come into force on the twenty-third day of February, nineteen hundred and forty-six. [63]

2. **Definitions.**—In these regulations, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say,—

“ the Act of 1918 ” means the Representation of the People Act, 1918, as amended by any subsequent enactment or Order in Council ;

“ the Act of 1943 ” means the Parliamentary Electors (War-Time Registration) Act, 1943, as amended by the Parliamentary Electors (War-Time Registration) Act, 1944, and by the Act of 1945 ;

“ the Act of 1945 ” means the Representation of the People Act, 1945 ;

“ declaration of residence ” means a service declaration or war worker's declaration ;

“ local authority ” means the authority whose clerk the registration officer is or by whom he is appointed ;

“ national registration regulations ” means national registration regulations, as defined by the Act of 1943, made by virtue of that Act ;

"peer" means a person who is incapacitated by reason of his status as a peer from voting at an election of a member of the House of Commons.

"qualifying address" in relation to any person means, according to the context, either—

(a) the address of the place in the constituency at which that person is registered in the National Register as residing on the qualifying date ;  
or

(b) the address of the premises in respect of which an application has been made for that person's inclusion in the business premises or rate-payers register for the constituency ; or

(c) the address given in that person's declaration of residence ;

"service voter" includes a war worker ;

"war work" means, in relation to any person, the work by virtue of which he is a war worker ;

"war worker" means a person who either—

(a) is registered in the National Register as a person engaged in war work abroad ; or

(b) not being so registered, is certified in accordance with subsection (2) of section three of the Act of 1945 to have been a member of the forces but to have ceased to be such a member at a time when he was outside the United Kingdom, and to be engaged in work of national importance outside the United Kingdom in connection with any war in which His Majesty may be engaged ;

"war worker's declaration" means—

(a) in relation to a war worker registered in the National Register, the declaration of residence by virtue of which he is for the time being so registered ;

(b) in relation to a war worker not so registered, means the declaration of residence for which provision is made in Part II of these regulations.

[64]

## PART II

### APPLICATION OF ACTS TO WAR WORKERS

**3. Scope of Part II.**—The provisions contained in this Part of these regulations shall have effect for conferring on war workers rights similar to those conferred by the Act of 1943 and the Act of 1945 on seamen and in connection therewith for modifying the said Acts in their application to persons who are war workers. [65]

**4. Service register.**—(1) Subject to the provisions of the Act of 1943 and these regulations, a person, being on the qualifying date a British subject of full age and not subject to any legal incapacity, shall be entitled to be registered in the service register in any constituency, if on that date that person—

(a) is a war worker ; and

(b) but for his war work would be residing at a place in the constituency.

(2) No person shall be entitled by virtue of this regulation to be registered in the service register in any constituency unless his war worker's declaration has been transmitted to the registration officer for that constituency in accordance with national registration regulations and received by that officer on or before the qualifying date ; and subsections (5) and (6) of section eight of the Act of 1943 shall apply in relation to the registration of a war worker by virtue of this regulation as if—

(a) for the reference in paragraph (i) of subsection (5) of the said section eight to the place at which a person is, or but for his service as a

member of the forces or a seaman would be, residing there were substituted a reference to the place at which he would be residing but for his war work ;

(b) for any reference in paragraph (c) of subsection (6) of the said section eight to persons who have made service declarations there were substituted a reference to war workers not registered in the National Register ;

(c) for any other reference to a member of the forces or a seaman, and for any other reference to a service declaration, there were respectively substituted references to a war worker and to a war worker's declaration.

(3) The war worker's declaration required to be made for the purposes of this regulation by a war worker not registered in the National Register shall—

(a) be made in the form set out in paragraph 2 of the First Schedule to the Act of 1945 ; and

(b) contain the particulars and other information required by that form (so, however, that a declaration giving such particulars and information with reasonable clearness shall not be invalid by reason only of the fact that it gives them in a manner other than that indicated by the form) ;

and subsections (3) and (4) of section eight of the Act of 1943 (which relate to the cancellation of service declarations) shall apply to any such war worker's declaration as they apply to service declarations.

(4) Notwithstanding anything in paragraph 2 of the said First Schedule, a war worker's declaration made by a war worker not registered in the National Register need not be accompanied by the certificates referred to in subsection (2) of section three of the Act of 1945 if the war worker has made a previous war worker's declaration which is cancelled by the new declaration.

[66]

**5. Civilian residence register.**—(1) A person shall not be entitled to be registered in the civilian residence register in any constituency if, on the qualifying date, that person is a war worker, and accordingly in section five of the Act of 1943—

(a) the reference to being registered in the National Register as usually resident outside the United Kingdom shall include a reference to being registered in that register as a person engaged in war work abroad ; and

(b) in relation to a register prepared for, or as for, an election initiated after the date on which section one of the Parliamentary Electors (War-Time Registration) Act, 1944, expires, the reference to being removed from the National Register on becoming exempt from registration therein by virtue of national registration regulations shall include a reference to being registered in that register as a person engaged as aforesaid.

(2) Where after the date on which the said section one expires a person ceases to be registered in the National Register as a person engaged in war work abroad, he shall be entitled to be registered in the civilian residence register in the appropriate constituency without any period of qualifying residence, and accordingly in the said section five, as it applies to a register prepared as aforesaid, and reference to becoming registered in the National Register on ceasing to be a member of the forces or a seaman shall include a reference to ceasing to be registered in that register as a person engaged in war work abroad. [67]

**6. Business premises applications on declaration form.**—(1) A person qualified to be registered in the business premises register to be comprised in the annual register may, if at the time of his application he is a war worker, apply to be so registered on the form applicable in his case for the making of a war worker's declaration, giving the address of the business premises occupied by him on the qualifying date instead of the address at which he would have been residing but for his war work, and subsections (2), (3), (4) and (7) of section eighteen of the Act of 1945 shall apply in relation to such an application, or to a person registered in pursuance of such an application, as if it were an application made in pursuance of that section by a seaman on a form of service declaration, but with the substitution in subsection (3) of a reference to the address at which he would be residing but for his war work for the address therein mentioned.

(2) Where, within the time allowed for the receipt of applications to be registered in any such business premises register, the registration officer or other officer concerned receives a form of war worker's declaration duly filled in, and marked in accordance with the said subsection (4) with the words "business premises application", or words to the like effect, and dated on or after the qualifying date by reference to which that register is to be prepared, then if either—

(a) the form is that appropriate for a war worker registered in the National Register and is accompanied by such a certificate as is referred to in subsection (2) of section eleven of the Act of 1943 purporting to relate to the person signing the form, or

(b) the form is that appropriate for a war worker not registered in the National Register and is accompanied by such certificates as are referred to in subsection (2) of section three of the Act of 1945 purporting to relate to the person signing the form,

it shall be presumed, until the contrary is shown, that that person was at the time of making the application a war worker and is entitled to be registered in that business premises register in respect of the premises referred to in the form. [68]

**7. Business premises applications by spouse or business manager.**—Section nineteen of the Act of 1945 shall apply in relation to war workers as if for the first reference in subsection (1) and for the reference in paragraph (b) of subsection (4) to a member of the forces or a seaman there were substituted references to a war worker. [69]

**8. Mode of voting.**—Except as provided by Part IV of the Act of 1945, a person registered in the service register as a war worker shall not be entitled to vote by post but, subject to the provisions of the said Part IV, may vote either in person or by proxy; and accordingly subsections (1) and (2) of section nine of, and the Second Schedule to, the Act of 1943 shall have effect as if any reference to a service declaration included a reference to a war worker's declaration and the expressions "service voter" and "central index of service voters" were construed accordingly. [70]

**9. Appointment of proxies for war workers at university elections.**—(1) A person entitled to vote at a university election shall be entitled to appoint a proxy to vote for him at any such election if, at the time of his application for the issue of a proxy paper, he is a war worker.

(2) An application for the issue of a proxy paper by any such person, being a war worker registered in the National Register, may be made on the same form as that prescribed under the Act of 1943 for use by such a war worker; and where such a form purporting to be signed by any person is accompanied by such a certificate as is referred to in subsection (2) of section

eleven of that Act, purporting to relate to that person, and bearing the same date as the application, it shall be presumed, until the contrary is shown, that the said person was a war worker so registered at the time of the application.

(3) An application for the issue of a proxy paper by any such person, being a war worker not so registered, may be made on the same form as that prescribed by or by virtue of the Act of 1945, for use by such a war worker ; and where such a form purporting to be signed by any person is accompanied by such certificates, purporting to relate to the same person, as are referred to in subsection (2) of section three of that Act, it shall be presumed, until the contrary is shown, that the said person was a war worker not registered in the National Register at the time of the application.

(4) Any proxy paper issued by virtue of this regulation shall, unless cancelled, remain in force until the expiration of the Act of 1943. [71],

**10. Arrangements for exercise of rights by war worker.**—Arrangements shall be made by each government department concerned for securing that (so far as circumstances permit)—

- (a) every person appearing to be qualified to be registered in the National Register as a war worker shall have an effective opportunity of becoming so registered in accordance with national registration regulations ;
- (b) every person appearing to be otherwise qualified as a war worker shall have an effective opportunity of obtaining the certificates required by subsection (2) of section three of the Act of 1945, and of exercising from time to time as occasion may require the rights conferred on him by virtue of these regulations in relation to the making of a war worker's declaration ;
- (c) every war worker shall have an effective opportunity of exercising from time to time as occasion may require the rights conferred on him by virtue of these regulations in relation to the business premises register and to voting by post or proxy ; and
- (d) every person who is qualified as aforesaid or is a war worker shall receive such instructions as to the effect of the Acts of 1943 and 1945 and of the Elections and Jurors Act, 1945, and any regulations made under or by virtue of those Acts, and such other assistance as may be reasonably sufficient in connection with the exercise of the rights conferred on him thereby. [72]

### PART III

#### REGISTRATION

##### *Form of Register*

**11. Separate section of register for each registration unit.**—(1) The civilian residence register, the business premises register, the service register, the ratepayers register and the supplementary register shall each be framed in separate sections for each registration unit in the constituency.

(2) The local authority may determine the registration units into which any constituency is to be divided but, subject to any such determination, the registration officer may take as the registration unit in any constituency or part of a constituency either the polling district or the registration unit of the preceding register. [73]

**12. Order of names in register.**—The local authority may determine the order to be adopted for the names in any section of the register but, subject to any such determination, the names in each section shall be arranged either in street order or in alphabetical order, or partly in one way and partly in another. [74]



**13. Numbering of names in register, etc.**—(1) The names in the register shall be numbered, so far as is reasonably practicable, consecutively with a separate series of numbers (beginning with the number one) in each of the five registers for each polling district.

(2) For the purpose of distinguishing one series from another there may be assigned to the civilian residence register, and there shall be assigned to the business premises register, the service register, the ratepayers register and the supplementary register, and to each polling district, a separate letter or letters; and the letters, if any, respectively indicating the register and the polling district shall (without being repeated in the register against every number) be treated as incorporated with the series relating to that polling district in that register and as forming part of each number of the series.

(3) Where a polling district in Scotland is partly in one registration area and partly in another, the provisions of this regulation with respect to the numbering of the names in the register and the assigning to each polling district of a separate letter or letters shall have effect as if each part of the polling district were a separate polling district. [75]

**14. Marking of names in register.**—(1) For the purpose of indicating the way in which an elector is entitled to vote at an election, letters shall be placed against the names in the register as follows:—

(a) in the service register or in the electors lists therefor and in the supplementary register, against the name of any elector who is registered—

(i) as a seaman, the letter “ S ”;

(ii) as a war worker, the letter “ W ”;

(b) in the supplementary register, against the name of an elector who is registered therein consequent on discharge from the forces or the merchant navy, the letter “ D ”;

(c) in the business premises register, against the name of any elector who is entered in any list of liverymen, the letter “ L ”;

(d) in any copy of a register which is used for the issue of ballot papers whether prior to or at the poll, against the name of any person entered in the absent voters list, the letter “ A ”;

(e) in any copy of a register which is used for the issue of ballot papers, whether prior to or at the poll, against the name of any service voter, the letter “ A ”, if he or some person as his proxy is entitled to vote by post:

Provided that where only the proxy is so entitled, the marking shall in the case of a register for use at a general election to which Part IV of the Act of 1945 applies, be the letter “ A ” surrounded

by a circle—thus (A)—for the purpose of indicating that a ballot paper shall not be sent to the service voter.

(2) Where the name of a peer is included in the general register or in the electors lists therefor as a local government elector, his name may be marked with the letter “ LE ” to denote that he is not entitled to be issued with a ballot paper at a parliamentary election. [76]

#### *Preparation and Publication of the Annual Register*

**15. Notice inviting applications for registration in business premises and ratepayers registers.**—(1) The registration officer shall on or within eight days after the qualifying date for an annual register publish a notice inviting applications for inclusion in the business premises and ratepayers registers.

(2) Such notice shall be in Form A of the forms set out in Part I of the Third Schedule to these regulations.

(3) The registration officer shall publish the said notice—

- (a) by making copies thereof available for inspection by the public in his office ; and
- (b) by causing it to be inserted in such newspapers as he thinks most suitable for the purpose of bringing it to the notice of persons interested ;

and may also if he thinks fit publish it in any other manner which is in his opinion desirable for that purpose. [77]

**16. Business premises register form of application.**—Application to be registered in the business premises register as a parliamentary or local government elector shall be made in Form A of the forms set out in Part III of the Third Schedule to these regulations or a form to the like effect. [78]

**17. Business premises applications allowed as ratepayers register applications.**—(1) Where a registration officer is satisfied that an application for inclusion in the business premises register which he has rejected would entitle the applicant to be registered in the ratepayers register, he shall treat the application as one for inclusion in the ratepayers register as a local government elector.

(2) This regulation shall not apply to Northern Ireland. [79]

**18. Business premises applications on behalf of service voters.**—An application made under section nineteen of the Act of 1945 by a spouse or business manager for the registration in the business premises register to be comprised in the annual register of a member of the forces or a seaman shall be accompanied by a declaration—

- (a) that he or she is the spouse of the person on whose behalf it is made, or that he or she is the manager of that person's business and either that person is not married or the spouse is a member of the forces, a seaman or a war worker abroad or is separated from that person ; and
- (b) that that person is at the time of the application a member of the forces or a seaman. [80]

**19. Ratepayers register form of application.**—Application to be registered in the ratepayers register as a local government elector for any local government area shall be made in Form B of the forms set out in Part III of the Third Schedule to these regulations, or a form to the like effect. [81]

**20. Registration of service, etc., peers.**—(1) A peer who is a member of the forces or a seaman shall be entitled to make application to be registered in the service register as a local government elector notwithstanding that he is disqualified from making a service declaration as a parliamentary elector under section eight of the Act of 1948.

(2) A peer who is a war worker shall be entitled to make application to be registered in the service register as a local government elector notwithstanding that he is disqualified from making a war worker's declaration as a parliamentary elector under regulation four of these regulations.

(3) The declaration of residence or any declaration cancelling such a declaration shall be in the same form as the corresponding declaration to be made by other persons for the purpose of registration as parliamentary electors in the service register, but—

- (a) shall be marked with the words " not available for parliamentary elections ; available only for local government elections in areas containing the address mentioned ", or words to the like effect ; and
- (b) shall be received by the registration officer on or before the qualifying date for an annual register. [82]



**21. Peers voting by proxy at local government elections.**—A peer who is registered in the service register shall have the right to the appointment of a proxy to vote for him at a local government election as provided by section thirty-one of the Act of 1945; and the provisions of the Act of 1943 and of regulation thirty-nine of these regulations relating to the appointment of service proxies shall apply accordingly. [83]

**22. Duty to publish electors lists.**—(1) It shall be the duty of the registration officer, within the time allowed by these regulations, to prepare and publish a civilian residence electors list, a business premises electors list, a ratepayers electors list and a service electors list, which shall respectively be in the form to be adopted for the corresponding parts of the register for the constituency.

(2) The civilian residence electors lists shall contain the names and qualifying addresses of all persons who appear to the registration officer, from information furnished to him in accordance with national registration regulations, to be qualified to be registered in the civilian residence register.

(3) The business premises and ratepayers electors lists shall contain the names and qualifying addresses of all persons for whose registration in the business premises and ratepayers registers applications have, within the time allowed by these regulations, been made to the registration officer in accordance with the Acts of 1943 and 1945 and these regulations, and who appear therefrom to be qualified to be so registered:

Provided that the registration officer shall omit from the business premises electors lists the name of any person who appears to him, from such comparison as it is practicable for him to make of the said applications with other information at his disposal, to be qualified to be registered in the civilian residence or service register for the constituency.

(4) The service electors list shall contain the names and qualifying addresses of all persons who appear to the registration officer from declarations of residence transmitted and information furnished to him in accordance with national registration regulations to be qualified in the service register.

(5) It shall not be necessary to number the names in an electors list. [84]

**23. Liverymen.**—(1) In the case of the City of London or any borough which has adopted section seventeen of the Act of 1918, there shall be appended to the business premises electors list a provisional list, in such form as the registration officer may determine, of any persons included in that electors list whose applications for registration in the business premises register included applications for them to be entered on the separate list of liverymen for which provision is made by that section and who appear therefrom to be qualified to be so entered.

(2) Regulation thirteen of these regulations shall apply to the numbering of the names in any list of liverymen or provisional list of liverymen as if those lists were sections, for a distinct polling district, of the business premises register and the business premises electors list respectively.

(3) Any reference hereinafter contained to an electors list shall, unless the context otherwise requires, include a reference to the provisional list of liverymen. [85]

**24. Time for applications.**—The time allowed for the matters specified in this paragraph for the purposes of an annual register and for elections for which that register is in force shall be as follows:—

(a) applications to be entered in the business premises and ratepayers registers shall be made before the first day of August;

(b) the civilian residence and service electors lists shall be published on the fifteenth day of August and the business premises and ratepayers electors lists not later than the twenty-ninth day of August;

- (c) claims and objections in respect of each of the electors lists shall be made on or before the fourteenth day after publication thereof ;
- (d) the consideration of claims and objections in respect of each of the electors lists shall be completed on or before the twenty-fourth day after publication thereof ;
- (e) applications to be entered in the absent voters list and the postal proxy list shall be made before the date of His Majesty's proclamation summoning a new Parliament or, in the case of a bye-election, before the date on which the writ is received, and the preparation of the said list shall be completed on or before the day fixed for nomination ;
- (f) applications to be entered in the service postal list (if required to be compiled) shall be received four clear days at least before the day fixed for nomination. [86]

### *Claims and Objections*

**25. Notice as to making of claims and objections.**—The registration officer shall at the time of publishing the electors lists publish a notice in Form B of the forms set out in Part I of the Third Schedule to these regulations, specifying the mode in which and the times within which claims and objections to the electors lists may be made under these regulations ; and where the registration officer omits from the business premises electors list or ratepayers electors list or from the provisional list (if any) of liverymen the name of any person for whose inclusion in that list an application has been duly made, he shall, on publishing the list, send to that person notice in writing of the omission of his name and the reason for the omission, together with a copy of the notice published under this regulation. [87]

**26. Making and recording of claims and objections.**—(1) At any time after the publication of any of the electors lists for a constituency and within the time allowed by these regulations, any person may send to the registration officer—

- (a) a claim to have a name entered in that list or, if it is already entered therein, to have it entered in a different place or manner ;
  - (b) if his name is entered in that or any other of those lists, an objection to the inclusion in that list of the name of any person, or to the place or manner in which the name of any person is entered therein.
- (2) A claim may be made by a person either on his own behalf or on behalf of another person and any such claim shall be signed by the person making it.
- (3) Every such claim shall give particulars of the qualification which, it is considered, exists and shall set out the qualifying address in respect of which the qualification is claimed and, except in the case of a claim relating to the service electors list, shall state the claimant's national registration number ; and every such objection shall give particulars of the grounds of the objection and shall state the electors list in which the objector's name is entered and his qualifying address.
- (4) If the registration officer is of opinion that a claim or objection cannot succeed either—
- (a) because the particulars given do not support the claim or objection ; or
  - (b) because the claim or objection is a repetition of a claim or objection made on some previous occasion and overruled ; or
  - (c) because the matter is concluded against the claim or objection by some provision of the Act of 1943 as to evidence ; or
  - (d) in the case of a claim to be entered on the business premises electors list, the ratepayers electors list or the provisional list of liverymen (if any), because no application for the claimant's inclusion in that list was made in accordance with the Act of 1943 or of 1945 and these regulations,

then, if he sees fit, he may, as soon as may be after receiving the claim or objection, send to the person making the claim or objection a notice stating—

- (i) that he is of that opinion ; but
- (ii) that it is open to that person, not later than the third day after the day of the said notice, to make to him representations in writing in support of the claim or objection,

and, where he sends a notice under this paragraph, shall take no further steps in relation to the claim or objection unless and until, from representations so made, he sees reason to revise his opinion.

(5) The registration officer shall keep separately a list of claims and a list of objections and, subject to the provisions of the last foregoing paragraph, shall, on receipt of a claim or objection, forthwith enter on the appropriate list the name and qualifying address of the person making the claim or objected to, together with the time and place at which he proposes to consider the claim or objection, and, until the publication of the register, shall keep the lists of claims and objections (or a copy thereof) at all reasonable times available for inspection by the public at his office.

(6) On entering a claim or objection under the last foregoing paragraph, the registration officer shall, unless he is satisfied that the claim can be allowed without further inquiry, send a notice, in the case of a claim, to the claimant and, in the case of an objection, to the person objected to and the person making the objection, stating the time and place at which he proposes to consider the claim or objection ; and the notice sent to a person objected to shall also state the grounds of the objection. [88]

**27. Consideration of claims and objections.**—(1) The registration officer shall consider each claim and objection specified in the lists of claims and objections at the place so specified and at the time so specified or so soon thereafter as is practicable, so that he completes the consideration of claims and objections within the time allowed by these regulations.

(2) On the consideration of a claim, the claimant shall be entitled to appear and be heard in support of his claim, and any person whose name is entered in any electors list for the constituency and who objects to the claim, and any other person who appears to the registration officer to be interested, shall be entitled to appear and be heard :

Provided that a person shall not, on consideration of a claim to be registered, be entitled to appear and object thereto unless—

- (a) a notice of his intention to object has been sent to the registration officer ; and
- (b) a copy of that notice has, not later than three days before the day fixed for the consideration of the claim, been sent by prepaid and registered post by the objector to the claimant either at the address at which he claims to be registered or at his last known place of abode.

(3) Any notice under this regulation of intention to object to a claim shall give particulars of the grounds of the objection and shall state the electors list in which the objector's name is entered and his address as shown in that list.

(4) The time fixed by the registration officer for the consideration of a claim shall not be earlier than the fifth day after that on which it is entered on the list of claims and objections.

(5) On the consideration of an objection, the person making the objection and the person with respect to whom it is made, and any other person who appears to the registration officer to be interested, shall be entitled to appear and be heard.

(6) Any person entitled by this regulation to appear may appear either in person or by any other person, other than counsel, on his behalf.

(7) The registration officer may, at the request of any person entitled to appear, or if he thinks fit without such a request, require that the evidence tendered by any person shall be given on oath, and may administer an oath for the purpose.

(8) If on consideration of any claim or objection it appears to the registration officer that the name of the claimant, or of the person with respect to whom the objection is made, ought to be entered not in the electors list or section of an electors list in which he claims to be or is entered, but in some other list or section, he may decide that the name shall be entered accordingly.

[89]

**28. Appeals from decisions of registration officer.**—(1) Where on the consideration of a claim or objection made with respect to the electors lists the claimant or objector exercises his right to appear and be heard, an appeal shall lie to the county court from the decision of the registration officer thereon, and—

- (a) subsections (2) to (5) of section fourteen of and rules 29 and 30 of the First Schedule to the Act of 1918,
- (b) any rules of court made for the purposes of that section, and
- (c) the forms of notice of appeal prescribed by the Representation of the People Order under the said rule 29,

shall apply for the purpose of appeals under this regulation as they apply for the purpose of appeals under subsection (1) of that section.

(2) This regulation shall in its application to Scotland have effect with the substitution for a reference to the county court of a reference to the sheriff.

[90]

**29. Preparation of registers.**—(1) The registration officer shall prepare the registers in the following manner :—

- (a) he shall make such additions to and corrections of the electors lists as are required in order to carry out his decisions on any claims or objections ;
- (b) he shall also make any such corrections in those lists, whether by way of the removal of duplicate entries or otherwise, and such additions thereto as he thinks necessary in order to secure that no person is registered when not so entitled and that the lists will be complete and accurate as registers.

(2) The electors lists as so corrected shall form the registers, and any provisional lists of liverymen as so corrected shall form the list of liverymen and shall form an appendix to and be treated as part of the business premises register. [91]

**30. Publication of register.**—(1) The registration officer shall make all the necessary corrections of the electors lists and do everything necessary to form the register in time to allow the publication thereof on the fifteenth day of October.

(2) The registration officer shall publish the register by making a copy thereof available for inspection at his office, and by publishing (in manner hereinafter provided) a notice stating that it is so available and specifying the place in or near each registration unit at which copies of the sections of the register relating to that unit are or will be made available for inspection.

(3) It shall be the duty of the registration officer to arrange for copies of the sections relating to any registration unit being made as soon as practicable after the publication of the register, and being kept until the fourteenth day of October or the subsequent conclusion or abandonment of any election for

which, after that date, the register is in force, available for inspection during business hours in that registration unit, either—

- (a) in the chief post office (if the Postmaster General gives authority for the purpose); or
- (b) in some other convenient place to which the public have access;

or, if it is impracticable to arrange for use of the said post office and no other convenient place in the registration unit is available, in the nearest convenient place available outside the registration unit, being a place to which the public have access.

(4) The registration officer shall, in Scotland, on the publication of the register furnish a copy thereof to the returning officer.

(5) Paragraphs (2) (3) and (4) of this regulation shall also apply in respect of the publication of a supplementary register. [92]

#### *Supplementary*

**31. Registration of persons who have been prisoners of war.**—(1) It shall not be necessary for the registration officer to include in a service register or a supplementary register (as the case may be) for any constituency as originally published the names of any persons who, having been prisoners of war, are entitled by virtue of section twenty of the Act of 1945 to be registered therein, if their service declarations are received by him too late for them to be conveniently included as aforesaid.

(2) Subject to the following provisions of this regulation, where an election is initiated in any constituency, the registration officer shall, not later than the day fixed for nomination, prepare a supplement to the service or supplementary register containing the names of any persons entitled to be registered therein as aforesaid and not included therein on the publication thereof.

(3) The said supplement shall be published in the same way as the register, and the names thereon shall be treated for all the purposes of the election (including the numbering and marking of the names therein) as if included in the register.

(4) The said supplement shall be prepared in such form as appears to the registration officer to be convenient. [93]

**32. Declaration as to age and nationality.**—(1) The registration officer before registering any person (otherwise than in the service register) may, if he thinks it necessary,—

- (a) require that person either to produce a certificate of birth or, if that is not practicable or convenient, to make a statutory declaration that he was of full age on the qualifying date; and
- (b) require that person to produce a certificate of naturalization or to make a statutory declaration that he was a British subject on the qualifying date.

(2) Where a declaration is so made, any fee payable in connection therewith shall be paid by the registration officer as part of his registration expenses, and the declaration shall be exempt from stamp duty.

(3) The registration officer shall during business hours allow any person to inspect and take a copy of any such declaration. [94]

**33. Reduced fee for certificates of birth.**—(1) Where for the purpose of these regulations any person requires a certificate of birth, that person shall, on presenting a written requisition and on payment of a fee of sixpence, be entitled to obtain a certified copy of any entry of the birth of that person in the register of births under the hand of the registrar or superintendent registrar having the custody thereof.

(2) Any such requisition shall be in the form prescribed for the purposes of rule 38 of the First Schedule to the Act of 1918, and the said form shall on application be supplied without charge by every registrar of births and deaths and by every superintendent registrar. [95]

**34. Sale of register, etc.**—(1) The registration officer shall supply to any person copies of any part of a register or of any electors lists therefor on payment of a fee of 1s. for any copy containing not more than 100 names and of 1d. for every additional 100 (or part of 100) names in such copy :

Provided that, except as regards the sale of two copies of the appropriate parts of a register to any person who appears to the registration officer genuinely to desire them for use in connection with his candidature (actual or proposed) at a local government election for which the register is or may be in force, a registration officer shall not be obliged to supply copies of any document under this paragraph unless—

- (a) he is satisfied that there are sufficient copies available after allowing for the number which may be required for the purposes of any election (including the purposes of the following paragraphs of this regulation) ;
- (b) the whole of the document is printed.

(2) Subject to the following provisions of this regulation, the registration officer shall, without fee, supply eight copies of the annual register and of the supplementary register and two copies of the electors lists for the annual register to any person appearing to him genuinely to desire them for use in connection with his own or some other person's candidature (actual or proposed) at any parliamentary election which may be held while the register is in force ; and for the purposes of this provision copies (to a number not exceeding two) in which one side of every sheet is left blank shall each count as two.

(3) The registration officer shall not under the last foregoing paragraph supply without fee to more than one person copies of the register in respect of the same candidature. [96]

#### PART IV

##### POSTAL AND PROXY VOTERS

###### *Absent Voters*

**35. Absent voters list.**—(1) An application to be entered in an absent voters list may be made—

- (a) as respects the period of currency of the register in force at the time the application is received, by any person registered in the civilian residence or business premises register or as a civilian voter in the supplementary register, and
- (b) as respects the period of currency of the register then being prepared, by any person for whose registration in the business premises register an application is or has been made or who is entered or has claimed to be entered in the civilian residence electors list.

(2) An application made under section seven of the Act of 1943 shall be made in Form C of the forms set out in Part III of the Third Schedule to these Regulations, or a form to the like effect.

(3) An application made under subsection (1) or subsection (3) of section six of the Elections and Jurors Act, 1945, shall be made in Form D of the forms set out in Part III of the Third Schedule to these regulations, or a form to the like effect.



(4) An application made under subsection (2) of section six of the Elections and Jurors Act, 1945, shall be made in Form E of the forms set out in Part III of the Third Schedule to these regulations, or a form to the like effect.

(5) The registration officer shall, if satisfied that a person is so entitled by reason of his application, enter the name of that person on the absent voters list.

(6) The absent voters list shall be made out in two parts, comprising respectively persons registered as civilian voters in the civilian residence and supplementary registers and persons registered in the business premises register, but, save as aforesaid, may be in such form as appears to the registration officer to be convenient.

(7) The registration officer shall, within the time allowed by these regulations,—

(a) number the names in that list consecutively beginning with the number one ;

(b) mark the name of any elector entitled to vote by proxy with the letter “ P ” in any copy of the list to be used for the issue of ballot papers ; and

(c) enter against the name of each elector the address to which a ballot paper is to be sent, and the list so prepared, with the additions hereinafter mentioned as respects persons voting by post as proxies for service voters and persons entered on that list in pursuance of an application made under section eighteen or nineteen of the Act of 1945, shall be the absent voters list for the election.

(8) Against the name of any absent voter entered in the list by reason of his registration in the business premises register in pursuance of an application made in accordance with section eighteen or nineteen of the Act of 1945 there shall be placed a star, together with his number in that register, to indicate that he is so entered therein and, in the case of an application made in accordance with the said section nineteen, a mark “ X ” to indicate that a ballot paper is not to be sent except to the address (if any) recorded in accordance with the next following paragraph.

(9) The registration officer shall keep a record of the addresses from time to time furnished to him by the persons entitled to be entered in that list as the addresses to which ballot papers are to be sent. [97]

**36. Absent voters voting by post as proxy for service voters.**—(1) Any person entered or applying to be entered in the absent voters list for any constituency who has been appointed proxy by a service voter having a qualifying address in that constituency may make an application also to vote by post on behalf of that service voter, and any such application shall be in form F of the forms set out in Part III of the Third Schedule to these regulations, or a form to the like effect.

(2) Any such application shall be disregarded—

(a) if the service voter is not registered in the service or supplementary register or entered in the service electors list for that constituency or is not entered in the list of proxies as having appointed a proxy ; or

(b) if the registration officer is not satisfied from the application of the applicant's identity with the person entered in the list of proxies as the proxy appointed by the service voter.

(3) Any such application shall also be disregarded where—

(a) it is made by a person applying to be entered in the absent voters list and the application to be so entered is not accepted by the registration officer ; or

(b) it is made by a person entered in the absent voters list and a proxy paper issued on that person's application is in force ;  
and any such application shall be treated as cancelled if, after it is made, a proxy paper is issued on the application of the person making it.

(4) The registration officer shall keep a record of the persons from whom applications have been received and accepted by him under this regulation, and shall place the letter " Z " against the name of the service voter in the list of proxies.

(5) If any such application or the applicant's appointment as proxy is cancelled, the registration officer shall make the necessary changes in the record kept under the last foregoing paragraph and in the list of proxies.

(6) Any such application shall be disregarded for the purposes of any election unless received before the initiation of an election, and on the initiation of an election the registration officer shall before nomination day enter against any such applicant's name in the copy of the absent voters list to be used for the issue of ballot papers an additional number, made up of his original number in that list and of a letter (which shall in the case of an applicant who has made more than one such application be different for each application) ; and at a general election to which Part IV of the Act of 1945 applies shall after each such number insert in brackets the number in the service register of the service voter as whose proxy the applicant made the application in question. [98]

**37. Absent voters' proxies.**—(1) Absent voters' applications for the issue of a proxy paper for the purpose of elections for which a register is to be in force may be made by persons entitled under paragraph (1) of regulation thirty-five to make applications for inclusion in an absent voters list.

(2) Paragraphs (1), (2) and (4) of regulation thirty-nine shall apply in relation to any such absent voter's application as aforesaid as they apply to service voters' applications.

(3) Any such absent voter's application, not being an application made in accordance with section eighteen or nineteen of the Act of 1945 on a form appropriate for a service voter's application, and any notice cancelling a proxy paper issued on such an application, shall be in form G and form H respectively of the forms set out in Part III of the Third Schedule to these regulations, or in a form to the like effect, and any proxy paper issued on such an application shall be in form C of the forms set out in Part I of the said Third Schedule, or a form to the like effect. [99]

#### *Appointments of Proxies*

**38. Procedure of registration officer as to appointments of proxies.**—

(1) Subject to the provisions of these regulations, the registration officer, on receiving an application duly made to him for the issue of a proxy paper, shall forthwith send to the person nominated in the application as first choice, unless he is satisfied that that person is not willing to be appointed or cannot lawfully be appointed by virtue of the provisions of the Second Schedule to the Act of 1943, a notice intimating that—

(a) it is proposed to appoint him as proxy for the voter ; and

(b) if no notice is received from him within five days intimating that he is not willing to be appointed or cannot lawfully be appointed by virtue of the provisions of the Second Schedule to the Act of 1943, his appointment will be accepted.

(2) If at the expiration of the said five days no notice has been received intimating that the person nominated as first choice is not willing to be appointed or cannot lawfully be appointed by virtue of the provisions of the



Second Schedule to the Act of 1943, the registration officer shall forthwith send or deliver a proxy paper to the person so nominated :

Provided that the registration officer shall not issue a proxy paper on the application of any person unless and until he is satisfied that the applicant is entitled to appoint a proxy.

(3) A proxy paper issued to a person as proxy for a service voter shall be in form D of the forms set out in Part I of the Third Schedule to these regulations, or a form to the like effect.

(4) If the registration officer is satisfied, or within the said five days notice is received by the registration officer informing him, that the person nominated as first choice is not willing to be appointed or cannot lawfully be appointed by virtue of the provisions of the Second Schedule to the Act of 1943, the registration officer shall, if another person is nominated as second choice, deal in like manner with the person so nominated.

(5) The registration officer shall keep a list of proxies in two parts, relating respectively to proxies appointed on a service voter's application and to proxies appointed on an absent voter's application ; and on issuing a proxy paper shall enter in the appropriate part of the said list the name and address of the person appointed as proxy and the name and qualifying address of the voter. [100]

**39. Special provisions as to appointments by service voters.**—(1) If the person nominated as first choice in a service voter's application for the issue of a proxy paper, or where another person is nominated as second choice each of such persons, is not willing to be appointed or cannot lawfully be appointed by virtue of the provisions of the Second Schedule to the Act of 1943, or if for any other reason the registration officer does not accept the appointment, the registration officer shall send a notice to the voter informing him of the fact and explaining the reason.

Any notice to be sent under this paragraph—

- (a) to a member of the forces shall be sent by post addressed to him care of the Central National Registration Officer for England ;
- (b) to a seaman shall be sent by post addressed to him care of the Registrar General of Shipping and Seamen ;
- (c) to a war worker shall be sent by post addressed to him care of the Central National Registration Officer for England, the Central National Registration Officer for Scotland, or the Central National Registration Officer for Northern Ireland, according to the situation of the constituency ;

with a view to its being forwarded to the proper address as shown in the Service Central Index maintained under subsection (6) of section eight of the Act of 1943.

(2) Subject to the provisions of this regulation, where a proxy paper issued to any person on a service voter's application is cancelled by notice given to the registration officer, or ceases to be in force on the issue of a proxy paper to some other person, the registration officer shall forthwith inform the first-mentioned person of the fact and remove his name from the list of proxies.

(3) Where a member of the forces who has appointed a proxy applies in accordance with these regulations to vote by post at an election (not being an election to which Part IV of the Act of 1945 applies), the registration officer shall, as soon as may be, inform the proxy of that fact and that his appointment will not have effect as respects the election then pending, and shall indicate the fact on the list of proxies by placing the letter " A ", together with the date of the initiation of the election, against the name of the voter.

(4) Where a service voter's application for the issue of a proxy paper, or a notice cancelling a proxy paper issued on a service voter's application, is

received by the registration officer after the initiation of an election in the constituency, the registration officer shall not take any steps in relation thereto until after the conclusion or abandonment of the election.

(5) Where a service voter's application for the issue of a proxy paper is accompanied by a declaration of residence from which it appears that the service voter has not attained the age of twenty-one, the registration officer shall not take any steps in relation thereto until the date on which the voter appears from the declaration to attain that age, or, if before that date an election has been initiated in the constituency and has not been concluded or abandoned, until after the conclusion or abandonment of that election.

[101]

#### *Postal Proxy Voters*

**40. Postal proxy list.**—(1) An application to be entered on a list of postal proxies compiled in accordance with section seven of the Elections and Jurors Act, 1945, shall be in form J of the forms set out in Part III of the Third Schedule to these regulations, or in a form to the like effect.

(2) Unless cancelled as hereinafter provided, an application shall remain in force in respect of any election at which the applicant is entitled to vote as proxy for the service voter named in the application.

(3) An application may be cancelled—

(a) by notice in writing furnished to the registration officer ;

(b) by a subsequent application in respect of a different address.

(4) Where an application has been accepted the registration officer shall place the letters "P.P." against the service voter's name in the list of proxies.

(5) The postal proxy list may be in such form as appears to the registration officer to be convenient.

(6) The registration officer shall, within the time allowed by these regulations,—

(a) number the names in that list consecutively beginning with the number one ; and

(b) enter against the name of each proxy the address to which a ballot paper is to be sent ;

and the list so prepared shall be the postal proxy list for the election. [102]

#### *Service Postal Voters*

**41. Service postal list.**—(1) An application by a member of the forces under subsection (3) of section nine of the Act of 1943 for a ballot paper to be sent to an address in the United Kingdom for the purpose of voting by post at an election (not being an election to which Part IV of the Act of 1945 applies) shall be in form C of the forms set out in Part II of the Third Schedule to these regulations, or in a form to the like effect.

(2) Where in any constituency an election as aforesaid is initiated the registration officer shall—

(a) prepare a service postal list containing the names and qualifying addresses of members of the forces registered in the service or supplementary register from whom he has, at least four clear days before the day fixed for nomination, received such applications ;

(b) number the names in the service postal list consecutively beginning with the number one ; and

(c) enter in that list the addresses furnished to him by the persons entered therein as the addresses to which ballot papers are to be sent ;

and the list so prepared shall be the service postal list for the election. [103]

**42. Applications in accordance with Part IV of the Act of 1945.**—(1) Any application under section twenty-five of the Act of 1945 to vote by post (including a fresh application giving a new voting address) made by a person registered in the service register comprised in the annual register or in the supplementary register shall be made in forms D (member of the forces), E (seaman) and F (war worker) of the forms set out in Part II of the Third Schedule to these regulations, or forms to the like effect; and any such application made by a person registered in the business premises register shall also be made as aforesaid, except that—

- (a) the application shall be marked with the words “business premises application”, or words to the like effect; and
- (b) the applicant, instead of giving the address for which he has completed an armed forces declaration card, shall give the address of the business premises in respect of which he is so registered.

(2) The said form shall be printed on the back of an envelope and the applicant shall address the envelope to the registration officer concerned and enclose in the envelope two address labels filled in with his name and the address to which he wishes a ballot paper to be sent:

Provided that if the applicant fails to enclose a second address label filled in as aforesaid, the application shall not be invalidated by reason thereof; but if the application relates to the service register, the registration officer shall make a duplicate of the label enclosed by the applicant.

(3) Any notice cancelling such an application shall be made in the same way as an application, except that in the envelope there shall be inserted, instead of address labels filled in as aforesaid, a paper bearing the words “voting address cancelled” or words to that effect and signed by the applicant.

(4) Any such application form shall be disregarded by the registration officer if the applicant is not registered (according to the form of the application)—

- (a) in the service or supplementary register; or
- (b) in pursuance of an application made under section eighteen or nineteen of the Act of 1945, in the business premises register;

or if the registration officer is not satisfied from the application of the applicant's identity with a person so registered.

(5) Subject to the last foregoing paragraph, the registration officer shall file all such applications relating to the service register, including the address labels, in such manner as appears to him convenient, so, however, that the persons to whom the address labels relate can be identified with the persons registered in the register, either from the order of the labels in the file or from the addresses on the envelopes or otherwise; and where any such application is superseded by a fresh application or is cancelled or otherwise ceases to be in force, the registration officer shall make the necessary changes in the file.

(6) Where the registration officer receives such an application relating to the business premises register he shall enter the voting address given therein on the absent voters list or other record of addresses.

(7) No separate service postal list shall be prepared for any general election to which Part IV of the Act of 1945 applies, but—

- (a) a copy of the service register in which the names of the persons entitled to vote by post have been marked as required by regulation fourteen of these regulations shall be used as the service postal list, the numbers of the names in the register being treated also as their numbers in that list; and
- (b) one of the two address labels supplied with an application to vote by post shall be treated as the record of address to which a ballot paper is to be sent, the other such label being used for the purpose of addressing the envelope. [104]

## PART V

## VOTING

*Questions to Proxies*

**43. Questions which may be asked of proxies voting in person.**—(1) The questions which may be asked of a person claiming to vote in person at an election as proxy for an elector shall be—

- (a) the first question set out in section eighty-one of the Parliamentary Voters Registration Act, 1848, modified so as to run as follows :—

“Are you the same person whose name appears as AB on [this proxy paper] [(or where the proxy is permitted to vote without producing the proxy paper) on the list of proxies for this election] as entitled to vote as proxy on behalf of CD ?”

- (b) the questions in Part II of the Second Schedule to the Act of 1918, modified so as to run as follows :—

- (i) in the case of a person voting as a proxy on behalf of a person registered in the civilian residence, service or supplementary register :—

“Have you already voted at this general election on behalf of CD in respect of a residence qualification ?”

- (ii) in the case of a person voting as proxy on behalf of a person registered in the business premises register :—

“Have you already voted at this general election on behalf of CD in respect of a qualification other than a residence qualification ?”

(2) The oath to be administered (elsewhere than in Scotland) to a person claiming to vote as proxy in relation to the said questions shall be as follows :—

“I swear by Almighty God [or I do solemnly, sincerely and truly declare and affirm] that I am the same person whose name appears on [this proxy paper] [(or as the case may be) the list of proxies for this election] as AB appointed to vote as proxy on behalf of CD.” [105]

*Procedure for voting by post and counting votes*

**44. Procedure for voting by post.**—Part III of and the Fourth Schedule to the Representation of the People Order shall apply in all respects to voting by post under the Act of 1948, whether by absent voters in their own right or by proxies or by service postal voters, as they apply to voting by post by absent voters under the Act of 1918, and references therein to absent voters or the absent voters list shall be construed accordingly :

Provided that—

- (a) with the number of the elector marked on the counterfoil of the ballot paper issued to him there shall, in the case of a person voting in his own right, be included a distinctive mark to indicate whether he is entered in the absent voters list, the postal proxy list or the service postal list ;

- (b) at the end of the instructions to the voter set out in Form No. I in the said Fourth Schedule there shall be added as part of paragraph 6 (which sets out the number of votes an elector may give at a general election) the following sentence :—

“A voter may also vote on behalf of any person by whom the voter has been duly appointed proxy, subject to the limitation that a voter may not vote in any one constituency as proxy for more than two persons of whom the voter is neither the husband, wife, parent, grandparent, brother or sister” ;

- (c) the said Part III and the said Fourth Schedule shall, in relation to persons voting by post as proxies for service voters, have effect subject to the modifications for which provision is made by the First Schedule to these regulations. [106]

**45. Postal voting in accordance with Part IV of the Act of 1945.**—(1) In respect of a general election to which Part IV of the Act of 1945 applies the procedure required by regulation forty-four shall be subject to the modifications for which provision is made by this regulation.

(2) Any covering envelopes returned so as to be received by the returning officer within nineteen days after the close of the poll shall be placed in a separate absent voters' ballot box from envelopes received before the close of the poll and shall be opened and checked in the same way as if received before the close of the poll; but, in the case of envelopes which appear from the declaration of identity not to have been returned by persons voting under Part IV of the Act of 1945, the contents shall be dealt with in the same way as if the declaration of identity had been rejected under the Representation of the People Order.

(3) The form of declaration of identity to be sent to a person for the purpose of voting by post under the said Part IV (but not any such form to be sent to any other person) shall have printed at the head the words "Number of elector in register: . . .", or words to that effect, and the said number shall be filled in by the returning officer, and any declaration of identity on which the said words are printed shall be rejected if, when it is returned, the said number has been defaced or removed.

Where a declaration of identity is rejected under this paragraph, it and any ballot paper accompanying it shall be dealt with in the same way as if it had been rejected under the Representation of the People Order.

(4) After all the envelopes contained in the absent voters' ballot boxes have been checked, the returning officer shall, from the numbers filled in as aforesaid on any such declarations returned and not rejected, mark a copy of the service register, supplementary register, and business premises register to indicate the persons who have voted by post under the said Part IV, and for that purpose all such declarations of identity shall, until the register has been so marked, be kept separate from other declarations of identity.

(5) The provisions of these regulations relating to the colour of a ballot paper issued for the purpose of voting as proxy for a person registered in the service, supplementary or business premises register and to the marking of a slip attached to the ballot paper so issued with the number of that person in the said register shall apply to ballot papers issued for the purpose of voting by post as proxy for a person so registered, and with any such ballot paper there shall be sent out an instruction to the proxy indicating the person on whose behalf it is to be used and explaining that any vote cast thereon will be cancelled if that person himself votes by post and that the ballot paper will be rejected unless the slip containing the number remains attached thereto.

(6) When the contents of the absent voters' ballot boxes are checked, any ballot papers issued for the purpose of voting as proxy by post—

- (a) shall be rejected, if the said slip does not remain attached thereto and if so rejected shall be dealt with as if rejected under the Representation of the People Order; but

- (b) if not rejected under that Order or this regulation, shall, instead of being placed in the sealed ballot box for the votes to be counted, be set aside in a separate receptacle to be dealt with as hereinafter mentioned.

(7) No ballot paper shall be sent to any person entered in the absent voters list if his name is marked therein with a mark "X" to indicate that he is registered in the business premises register in pursuance of an application

under section nineteen of the Act of 1945, except to the address (if any) entered in the absent voters list or other record of addresses. [107]

**46. Provisions for checking votes of service proxies at general election.—**

(1) At a general election to which Part IV of the Act of 1945 applies the ballot paper to be issued to any person for the purpose of voting as proxy for a person registered in the service, supplementary or business premises register shall—

- (a) be of a different colour from ballot papers of any other description so as to be readily distinguishable from them ; and
- (b) have attached thereto, on the opposite side to the counterfoil, a perforated slip, on the back of which shall be printed the words “ number of service voter in register : . . . .”, or words to that effect ;

and the said number shall be filled in, when the ballot paper is issued, at the same time as that number (or, in the case of a proxy voting by post, the relevant number in the absent voters list or the postal proxy list in lieu of that number) is marked on the counterfoil.

(2) When the contents of the absent voters' ballot boxes have been checked, the returning officer shall proceed forthwith to the counting of the votes in accordance with the First Schedule to the Ballot Act, 1872, subject to the modifications for which provision is made by this regulation.

(3) When the number of the ballot papers in each ballot box has been counted and recorded in accordance with paragraph 34 of the said First Schedule, the coloured ballot papers shall be separated from the others, and the others shall be mixed together in accordance with the said paragraph 34 and shall be returned to one or more ballot boxes, which shall first be shown open and empty to the agents of the candidates then present and shall be sealed with the seal of the returning officer and of such of the said agents as desire to affix their seals.

(4) The said coloured ballot papers shall then be examined, and any ballot paper to which the perforated slip does not remain attached shall be rejected.

(5) The remaining coloured ballot papers, together with any such ballot papers returned by post and set aside in accordance with the last foregoing regulation, shall then be dealt with as follows :—

- (a) the number on the perforated slip of each ballot paper shall be read out, and if on comparison with the marked copy of the service, supplementary or business premises register, as the case may be, it is found that the name of the service voter has been marked in accordance with the last foregoing regulation to indicate that he has himself voted, the ballot paper shall be rejected ;
- (b) any ballot paper not rejected under the foregoing paragraph shall have the perforated slip detached therefrom and shall be placed in a ballot box with the other ballot papers set aside for the votes to be counted ;
- (c) the perforated slips detached as aforesaid shall be placed in a separate receptacle and shall be sealed up in a separate packet and forwarded to the Clerk of the Crown in Chancery (or in the case of Scotland to the sheriff clerks and in the case of Northern Ireland to the Clerk of the Crown for Northern Ireland), together with the sealed packets of ballot papers at the conclusion of the count ;
- (d) while the ballot papers are being dealt with in accordance with this paragraph they shall be kept, so far as practicable, with their faces downward and all proper precautions shall be taken for preventing any person from seeing the way in which they have been marked.



(6) Any ballot paper rejected under this regulation shall be dealt with in the same way as ballot papers rejected under the said First Schedule, except that the number of ballot papers so rejected shall be reported to the Clerk of the Crown in Chancery, the sheriff clerks, or the Clerk of the Crown for Northern Ireland, as the case may be, under two additional heads, namely—

5. proxy ballot papers not identifiable ; and
6. duplicate proxy votes.

(7) Where the checking of the coloured ballot papers in accordance with this regulation is completed on the day on which the counting of the votes begins, the counting shall thereupon be adjourned until nine o'clock in the morning on the next following day which is not a Sunday, Christmas Day or Good Friday, or a day which under the Bank Holidays Act, 1871, as amended by any subsequent enactment (including Defence Regulations), is a bank holiday in the place where the votes are being counted, and the like precautions for the security of ballot papers and other documents relating to the election shall be taken as are required by paragraph 35 of the said First Schedule to be taken during the time excluded from the counting of the votes by that paragraph. [108]

## PART VI

### MISCELLANEOUS AND GENERAL

#### *Service Voters*

**47. Attestation of service declarations.**—(1) A service declaration made by a member of the forces shall, save as hereinafter provided, be attested by a commissioned officer in the armed forces of the Crown.

(2) A service declaration made by a member of the forces by virtue of section three of the Act of 1945 shall be attested by his commanding officer.

(3) A service declaration made by a seaman shall be attested either—

- (a) by the master of the ship (being a British ship registered in the United Kingdom) in which he is serving at the time of making his declaration ; or
- (b) by a superintendent within the meaning of the Merchant Shipping Act, 1894 ; or
- (c) by a British consular officer. [109]

**48. Postal voting areas.**—(1) The areas outside the United Kingdom which are postal voting areas for the purposes of Part IV of the Act of 1945 are the areas specified in the Fourth Schedule to these regulations.

(2) This regulation shall apply in respect of university constituencies.

[110]

**49. Sending of election addresses to service voters.**—(1) Every candidate at a general election to which Part IV of the Act of 1945 applies shall, on making a request to the returning officer and on supplying him with the necessary copies, be entitled to have his election address or any other document containing matter relating to the election only sent to each person entitled to vote by post in the constituency under the said Part IV by being enclosed in the same cover as the ballot paper to be sent to that person :

Provided that—

- (a) no candidate shall be entitled to have sent to any person a document measuring more than ten inches by seven and a half inches or a document which weighs, or documents which together weigh, more than a quarter of an ounce ; and
- (b) for the purpose of this regulation candidates who are, under paragraph (4) of Part V of the First Schedule to the Corrupt and Illegal Practices Prevention Act, 1883, deemed to be joint candidates shall be treated as a single candidate.

(2) In the application of this regulation to a university constituency, a reference to a voting paper shall be substituted for the reference to a ballot paper and, in the case of the combined Scottish University constituency, the reference to the returning officer shall be construed, in relation to any elector, as a reference to the registrar of the University in the register for which that elector is registered. [111]

**50. Voting by post at university elections.**—(1) On the initiation of a general election to which Part IV of the Act of 1945 applies, the returning officer for any university constituency, or on his request the registrar of the university or of any of the universities constituting the constituency, shall not later than the day fixed for nomination mark on the copies of the register to be used at the election for checking voting papers before they are counted, or on the copies to be so used of such part of that register as may be specified in the request, the names of all persons entitled to vote by post at that election under the said Part IV.

(2) The said copies shall be used both for the purpose of rejecting proxy votes where the elector votes himself, and for distinguishing, in the case of votes received after the close of the poll, between votes cast by persons entitled to vote under the said Part IV and votes cast by other persons.

(3) Where, when the votes are being checked, it is found that a voting paper otherwise valid has been received from a person voting as proxy on behalf of a person entitled to vote by post under the said Part IV, the voting papers shall—

- (a) if the name of the elector is already marked to show that a voting paper has been received from him, be treated as invalid ;
- (b) if not, be set aside until the conclusion of the checking and shall then again be checked and either treated as invalid if the name of the elector is then marked as aforesaid or placed with the other papers set aside for the votes to be counted. [112]

**51. Time.**—(1) The time allowed by these regulations for any matter shall be the time mentioned in relation to that matter in the body of these regulations.

(2) Where the last day of the time allowed by these regulations for any matter, other than the consideration of claims and objections, falls on a Sunday, Christmas Day, Good Friday or a bank holiday, that time shall be extended until the end of the next following day which is not a Sunday, Christmas Day, Good Friday or a bank holiday.

(3) In this regulation the expression “ bank holiday ” means, in relation to any constituency, a day which is a bank holiday under the Bank Holidays Act, 1871, as amended by any subsequent enactment (including Defence Regulations), in that part of the United Kingdom in which the constituency is situated. [113]

**52. Forms.**—(1) The forms set out or described in the Third Schedule to these regulations, or forms to the like effect, shall be used for the purposes respectively mentioned in relation thereto in that Schedule and are the forms prescribed for those purposes.

(2) The registration officer shall without fee supply any of the forms prescribed by Part III of the said Third Schedule.

(3) The provisions of Part IV of the Third Schedule shall have effect in relation to the forms to be used in the cases mentioned in the said Part IV by persons who are members of the forces, seamen, and war workers. [114]

**53. Contents and validity of applications, etc.**—(1) No application, claim, declaration or notice for which a form is prescribed by these regulations shall be of any effect unless it gives, with reasonable clearness, the particulars and other information required by that form.



(2) No such application, claim, declaration or notice shall be invalid by reason only of the fact that it gives any such particulars or information in a manner other than that indicated by the form. [115]

**54. Mode of making applications, sending notices, etc.**—(1) Any application to be made to the registration officer shall, where no form is prescribed, be made in writing, signed by the applicant and sent to the registration officer.

(2) Any application, claim or notice which is required to be made or sent to the registration officer may be sent to him by post addressed to him either at the address notified by him for the purpose or at his office, unless some other method is required by national registration regulations.

(3) Any notice which is required to be sent by the registration officer to any person may be sent by post to the address of that person as given by him for the purpose, or as appearing on the list to which the notice relates, or, if there is no such address, to his last known place of abode, unless some other method is required by these regulations. [116]

**55. Publication of documents.**—(1) Where the registration officer is required by these regulations to publish any document (and no specific provision is made as to the mode of publication) he shall publish the document by making copies thereof available for inspection at his office.

(2) Where the document relates to a registration unit he shall also publish it by making copies thereof available for inspection by the public at the place at which the sections of the register relating to that registration unit have been or are to be made available under these regulations.

(3) The registration officer may also if he thinks fit publish any document in any other manner which is in his opinion desirable for the purpose of bringing the contents of the document to the notice of persons interested.

(4) The documents set out in the first column of the Second Schedule to these regulations shall be kept published for the times respectively set out in the second column of that Schedule.

(5) Any failure to publish a document in accordance with these regulations shall not invalidate the document, but this provision shall not relieve the registration officer from any penalty for such a failure.

(6) If any person without lawful authority destroys, mutilates, defaces or removes any notice published by the registration officer in connection with his registration duties, or any document which has been made available for inspection by the public in accordance with these regulations, he shall be liable on summary conviction to a fine not exceeding five pounds. [117]

**56. Inspection of documents and sale of obsolete register.**—The registration officer—

(a) shall allow any person to inspect and take extracts from any document required by these regulations to be published or kept for inspection by the registration officer or any claim or notice of objection made under these regulations ;

(b) may, after a register has ceased to be in force, supply to any person copies of that register, or any part thereof, on payment of a fee of one shilling with the addition of one penny for every 125 (or part of 125) names after the first 125. [118]

**57. Misnomer, etc.**—(1) No misnomer or inaccurate description of any person or place on any list or on the register or in any notice shall prejudice the operation of the Acts of 1943, 1944, 1945, the Elections and Jurors Act, 1945, or these regulations as respects that person or place, if the person or place is so designated as to be commonly understood.

(2) The registration officer may, in any case where he thinks it expedient to do so for the purpose of preventing confusion, enter against the name of

any person on any list or on the register or in any notice his national registration number. [119]

**58. University constituencies.**—These regulations shall not, save where expressly so provided, apply to university constituencies. [120]

**59. Application to Northern Ireland.** [121]

**60. Revocations.**—The Electoral Registration Regulations 1944, the Electoral Registration Regulations 1945, and the Electoral Registration (No. 2) Regulations 1945, are hereby revoked. [122]

## SCHEDULES

### FIRST SCHEDULE

#### MODIFICATIONS, IN RELATION TO PROXIES FOR SERVICE VOTERS, OF RULES FOR VOTING BY POST

1. Subject to the provisions of this Schedule, the procedure to be followed in relation to an absent voter entitled to vote by post as proxy for a service voter shall be the same as if there were a separate entry of the absent voter's name in the absent voters list in respect of each number placed against it in that list and as if each such entry related to a different person entitled to vote as an absent voter in his own right.

2.—(1) Where it appears to the returning officer from a comparison of the absent voters list and the postal proxy list with the list of proxies that a person has applied to vote by post as proxy on behalf of more than two other persons of whom he is neither the husband, wife, parent, grandparent, brother or sister, the returning officer shall not issue ballot papers to that person as proxy for more than two of those other persons.

(2) Where under this paragraph a returning officer determines not to issue a ballot paper to a person as proxy for a service voter, he shall cause any copies of the register which are to be used at the poll to be amended by deleting the letter "A" against the name of that service voter :

Provided that in respect of elections to which Part IV of the Act of 1945 applies this sub-paragraph shall have effect with the substitution for the letter A of the letter A surrounded by a circle.

3. All ballot papers issued to any one absent voter or person entered on a postal proxy list may be sent to him in the same envelope and there may be included therewith only one form of declaration of identity, covering envelope and ballot paper envelope.

4. Where paragraph 3 applies, the numbers of all the said ballot papers shall be marked on the form of declaration of identity and on the ballot paper envelope, and any reference in the Representation of the People Order to the number on that declaration and the number on that envelope agreeing with one another, or with the number of the ballot paper, shall (subject to the next following paragraph) be construed accordingly.

5. Where, on the opening of the absent voters ballot boxes, the returning officer finds that the numbers on a declaration of identity agree with the numbers on some but not all of the relevant ballot papers he shall—

(a) make out a copy of the declaration and deal with the copy as if it were an original declaration relating only to the votes not rejected, except that he shall endorse thereon the words "votes rejected except as to ballot papers Nos. " ; and

(b) endorse the original declaration with the same words and thereafter deal with it as if it related only to the votes rejected. [123]

## SECOND SCHEDULE

## PERIODS DURING WHICH DOCUMENTS MUST BE KEPT PUBLISHED

<i>Document</i>	<i>Period of publication</i>
Notice inviting applications for registration in business premises and ratepayers registers.	Until the end of the last day for making such applications.
Electors lists, and corrupt and illegal practices list as first published.	Until publication of register.
Notice as to mode of making claims and objections.	Until the end of the last day for making claims and objections.
Register .. .. .	Until the fourteenth day of October next following the date of publication or the subsequent conclusion or abandonment of any election for which the register is in force after that date. [124]

## THIRD SCHEDULE

## PART I

*Forms for use by Registration Officers*

## FORM A: NOTICE AS TO BUSINESS PREMISES AND RATEPAYERS APPLICATIONS

## REPRESENTATION OF THE PEOPLE ACTS

## CONSTITUENCY OF.....

## APPLICATION FOR INCLUSION IN THE BUSINESS PREMISES AND RATEPAYERS REGISTERS TO BE PUBLISHED ON OCTOBER 15TH, 194..

## QUALIFYING DATE.....JUNE 30TH

Any person wishing to be registered in the Business Premises or Ratepayers Registers and having the necessary qualifications should make an application to me in the prescribed form.

*Business Premises Register.*

The qualification depends on occupation of business premises of the yearly value of not less than ten pounds in the constituency on the qualifying date. Applications may be made on behalf of a person in the forces, a seaman or a war worker abroad, by the spouse or, if there is no spouse, or in certain other circumstances, by the manager of the business. In such cases the application must show that it is made by a person so entitled and that the person on whose behalf it is made is on the date of the application a member of the forces, a seaman, or a war worker abroad. A spouse or manager of business premises making an application on behalf of a person so entitled will require to inform him of the need to supply the Electoral Registration Officer with his service, etc., address to which a ballot paper should be sent, and to make application to appoint a proxy if he so desires. All other applications must be signed by applicant in person.

*Ratepayers Register.*

The qualification for inclusion in the Ratepayers Register depends on the occupation as owner or tenant of premises or land, the address of which is not on the qualifying date carried by the applicant on his civilian identity card, or in respect of which he has not claimed the business premises vote. An application must be signed by the applicant in person.

Forms of application for inclusion in each of these Registers may be obtained from me at the address below, and must be returned to me at that address, on or before July 31st.

Persons will be notified if their applications cannot be allowed.

Signed .....  
Electoral Registration Officer.

Address.....  
.....

Date.....

*Note* 1. A person making application to be registered in the Business Premises or Ratepayers Register, knowing that the application contains a false statement, is liable to heavy penalties.

2. A person is not entitled to be registered as a parliamentary elector twice in the same constituency.

3. A person cannot be registered in the Ratepayers Register in respect of more than one ward of a county borough or borough (other than a metropolitan borough).

## FORM B: NOTICE AS TO CLAIMS AND OBJECTIONS

### REPRESENTATION OF THE PEOPLE ACTS

#### NOTICE AS TO THE MAKING OF CLAIMS AND OBJECTIONS

##### ELECTORS LISTS FOR THE ANNUAL REGISTER

Constituency of .....

Registration Units .....

.....  
.....

I hereby give notice that claims and objections in respect of the Civilian Residence and Service electors lists for the registration units mentioned above must be received by me at the address below on or before.....and that claims and objections in respect of the Business Premises and Ratepayers electors lists for those units must be received on or before.....

No special form is required for this purpose but :-

1. A claim should set out clearly the qualification which it is considered exists and the qualifying address in respect of which the qualification is claimed. If a claim relates to the Civilian Residence electors list, the claimant's national registration number must be given. An objection must specify clearly the grounds on which it is made. A claim must be signed by or on behalf of the claimant, and an objection must be signed by the person objecting.
2. As an objection can only be made by a person who is himself on one of the electors lists, the name of the list in question and the qualifying address of the objector must be set out in the notice of objection.
3. A claim in respect of the Business Premises or Ratepayers electors lists can only be made if an application for registration has been received by the Registration Officer from the claimant within the prescribed time.
4. A claim in respect of the Service electors lists can only be made if an application for registration has been received by the Registration Officer on or before the qualifying date.
5. If a notice is sent by post, postage must be prepaid.

Signed .....  
Electoral Registration Officer.

Address .....  
.....

Date.....

NOTE.—Except where the registration officer acts for part only of the constituency, it shall be sufficient for the notice to refer to "all registration units," without further specifying them.

FORM C: PROXY PAPER  $\left. \begin{array}{l} \text{*CIVILIAN RESIDENCE} \\ \text{*BUSINESS PREMISES} \end{array} \right\} \text{REGISTER}$

Constituency .....

Polling District .....

Name .....

Address.....

the above-named person is hereby appointed as proxy for

Name of Elector .....

who is qualified to be registered as a parliamentary elector in respect of

Qualifying Address.....

to vote for such elector at all parliamentary elections for the above constituency during the currency of the register published on.....

\* Delete where inapplicable.

Signature of Electoral Registration Officer.....

Date.....

NOTE 1. The person appointed as proxy should carefully preserve this paper which should if possible be produced to the Presiding Officer at the polling booth.

NOTE 2. As a proxy you must vote in person at the polling station for the qualifying address of the person who has nominated you as proxy.

FORM D: PROXY PAPER (SERVICE)

REPRESENTATION OF THE PEOPLE ACTS

PROXY PAPER (SERVICE REGISTER)

Constituency .....

Polling District .....

Name .....

Address.....

is hereby appointed as proxy for

Name of Voter.....

who is qualified to be registered as a service voter in respect of

Qualifying Address.....

to vote for such voter at all parliamentary elections for the above constituency whilst this proxy paper remains in force.

Signature of Electoral Registration Officer .....

Address .....

Date.....

## PART II

*Forms for use by Service voters*

[NOTE.—The cancellation of a service declaration or war worker's declaration automatically cancels also any proxy appointment made by virtue of that declaration.]

FORM A: COMBINED FORM OF SERVICE DECLARATION AND APPLICATION FOR  
ISSUE OF PROXY PAPER BY MEMBER OF FORCES

## PART 1.

*Front*

## ELECTORAL REGISTRATION (ARMED FORCES)

(If you are a British subject and declare to an address in Great Britain or Northern Ireland, these particulars are to enable you to vote, if or when you are 21 or over, at a parliamentary election for the constituency containing the address declared to.)

I HEREBY DECLARE THAT I:—

Surname..... Service .....  
(BLOCK CAPITALS)

Christian Names.....

Service No. (if any)..... Rank or Rating .....

Am a British subject, and

\*Am } 21 years of age or over.  
\*Am not }

\*(If under 21 years of age) was born on.....

Day	Month	Year
:	:	:

and reside or but for my service would reside at:—

(Full postal address) .....  
.....

I hereby cancel any previous declaration made by me.

Signed..... Date .....

Signature of Attesting Officer .....

Rank..... Ship, Regt. or Unit .....

\* Cross out inapplicable words.

## PART 2.

*Back*

## PROXY APPOINTMENT

(If you desire to appoint a proxy to vote for you in your absence, fill in this form.)

I HEREBY CANCEL ANY PREVIOUS PROXY APPOINTMENT MADE BY  
ME AND APPOINT AS MY PROXY:—

Names of First Choice .....  
(BLOCK CAPITALS)

Postal Address of First Choice.....

Relationship, if any, of First Choice to Elector .....

OR IF HE OR SHE IS UNABLE OR UNWILLING TO ACT

Names of Second Choice .....  
(BLOCK CAPITALS)

Postal Address of Second Choice .....

Relationship, if any, of Second Choice to Elector.....

Signed .....

**FORM B: COMBINED FORM OF SERVICE DECLARATION AND APPLICATION FOR  
ISSUE OF PROXY PAPER BY SEAMAN**

**PART 1.***Front***ELECTORAL REGISTRATION (SEAMAN)**

(If you are a British subject and declare to an address in Great Britain or Northern Ireland, these particulars are to enable you to vote, if or when you are 21 or over, at a parliamentary election for the constituency containing the address declared to.)

I HEREBY DECLARE THAT I :—

Surname .....  
(BLOCK CAPITALS)

Christian Names.....

Dis. A. No. .... Rank or Rating.....

Am<sup>a</sup> a British subject, and

\*Am

\*Am not } 21 years of age or over.

\*(If under 21 years of age) was born on.....

Day	Month	Year
:	:	:

and reside or but for my service would reside at :—

(Full postal address).....  
.....

I hereby cancel any previous declaration made by me.

Signed ..... Date .....

Signature of Person Attesting .....

Qualification .....

\* Cross out inapplicable words.

*Back*

*The back of this form shall be the same as the back of Form A.*

**FORM C: SERVICE POSTAL VOTER'S APPLICATION****REPRESENTATION OF THE PEOPLE ACTS**

*Application by a member of the forces in the United Kingdom to vote by post*

I, Surname (1).....  
(BLOCK CAPITALS)

Christian names .....

request that a ballot paper in respect of the coming election be sent to me at

.....  
.....

(give full postal address)

I have previously completed an Armed Forces Declaration Card for

.....  
.....

(give address of civilian residence which you gave when completing

AFB 2626  
S 1300B  
RAF Form 2040).

Signed ..... Date.....

Witnessed by (2).....

Address (3) .....

.....  
NOTE (1) If you have changed your name since completing put  
your old name in brackets after your present name. { AFB 2626  
S 1300B  
RAF Form 2040

(2) The witness must be a person who knows you and if a member of the forces should state his or her ship, regiment or unit.

(3) If the witness is in the forces he should not give his address, but should state his number (if any) and his ship, regiment or unit.

(4) If the address of the Electoral Registration Officer is not known, this application should be addressed to the Town and County which you gave as your address on your armed forces declaration card.

## FORM D: SERVICE POSTAL VOTER'S APPLICATION

I, Surname .....  
(BLOCK CAPITALS)

Christian names .....

Rank or Rating..... Service Number.....

request that a ballot paper in respect of a general election be sent to me at the address I have written on the label within (give full postal address).

I have previously completed an Armed Forces Declaration Card for

.....  
.....

(give address of civilian residence which you gave when completing

AFB 2626

S 1300B

RAF Form 2040).

Signed..... Date .....

## FORM E: SERVICE POSTAL VOTER'S APPLICATION (SEAMEN)

I, Surname .....  
(BLOCK CAPITALS)

Christian names .....

Rank or Rating..... Dis. A. No. ....

request that a ballot paper in respect of a general election be sent to me via the address shown on the label within and on which I have inserted the particulars required.

I have previously completed a Seamen's Declaration Card for

.....  
.....

(give address of civilian residence which you gave when completing M.N.E.R. 1).

Signed..... Date .....

FORM F: SERVICE POSTAL VOTER'S APPLICATION (WAR-WORKERS  
ABROAD)

I, Surname .....  
(BLOCK CAPITALS)

Christian names .....

request that a ballot paper in respect of a general election be sent to me at the address I have written on the label within.

(Give full postal address.)

I have previously completed a War-Worker's Declaration Card for

.....  
.....

(give address of civilian residence which you gave when completing your declaration card).

Signed..... Date .....



## PART III

## FORMS FOR USE BY OTHER PERSONS

## FORM A : BUSINESS PREMISES APPLICATION

## REPRESENTATION OF THE PEOPLE ACTS

APPLICATION TO BE REGISTERED IN BUSINESS PREMISES REGISTER  
(PARLIAMENTARY AND LOCAL GOVERNMENT FRANCHISE)

To the Electoral Registration Officer for the Parliamentary Constituency of

.....

Address.....

.....

## 1. Name of applicant :

- (a) surname (in block capitals) .. (a)  
 (b) christian names (in full) .. (b)

## 2. Particulars of premises occupied on qualifying date (see note 1).

- (a) full postal address .. .. (a)  
 (b) business, trade or profession, then carried on there by applicant, as occupier. (b)  
 (c) were the premises occupied jointly with other persons? If so state— (c)  
 (i) the number of joint occupiers : (i)  
 (ii) whether they were partners carrying on their business, trade or profession there, and, if not partners, their names. (ii)

## 3. Particulars of value of premises if separately rated :

- (a) yearly value. (The yearly value is, in England or Wales, the gross value for rating purposes : in Scotland, the gross annual value as shown in the valuation roll : in Northern Ireland, the rateable value. If not separately rated, say so, and fill in paragraph 4 below.) (a)  
 (b) if yearly value is not known, state—  
 (i) amount of rent paid annually, (b) (i)  
 or  
 (ii) amount of last demand for rates. (ii)

## 4. Particulars of yearly value of premises if not separately rated :

- (a) if the premises are in England or Wales and are rated with other premises, specify the other premises together with the total gross value for rating purposes ; (a)

<p>(b) if the premises are in England or Wales but are not rated, either—</p> <p>(i) give the amount of the Schedule A assessment of the premises for income tax; or</p> <p>(ii) if the premises are assessed under Schedule A with other premises, specify the other premises together with the total amount of the assessment;</p> <p>(c) if neither sub-paragraph (a) nor sub-paragraph (b) applies, state shortly nature and extent of premises and the annual rental paid (exclusive of payments for service or furniture).</p>	<p>(b)</p> <p>(i)</p> <p>(ii)</p>
<p>5. (a) Has any other application been made for registration in the business premises register to which this application relates (<i>see note 3</i>)?</p> <p>(b) if so, give the address or addresses of the premises in respect of which the other application or applications were made.</p>	<p>(a)</p> <p>(b)</p>
<p>6. If the applicant is on the qualifying date entitled to be registered in a service register, state address given on declaration card (<i>see note 3</i>).</p>	
<p>7. State the address entered on your civilian identity card on the qualifying date (<i>see note 3</i>).</p>	

### DECLARATION

I declare that the above particulars are, to the best of my knowledge and belief, true and correct in all respects; that on the qualifying date I was a British subject and had attained the age of twenty-one years.

I apply to be registered in the Business Premises Register.

Signature.....

Date.....

### NOTES

1. You are required to fill up the whole of this form so far as applicable to your case. The qualifying date is.....  
This application must be received by the Electoral Registration Officer at the address given at the top of the form on or before.....

2. Any person making an application to be registered in the Business Premises Register, knowing that the application contains a false statement, is liable to heavy penalties.

3. A person is not entitled to be registered as an elector twice in the same constituency.

### LIVERYMEN

If, in a constituency where a list of liverymen is prepared, the applicant is qualified and wishes to be entered on that list, that fact should be stated below (with particulars of the qualification) and the statement signed by the applicant.

Qualification .....

Signature .....

FORM B: RATEPAYERS REGISTER APPLICATION  
(ENGLAND AND WALES)

## REPRESENTATION OF THE PEOPLE ACTS

APPLICATION TO BE REGISTERED IN THE RATEPAYERS REGISTER  
(LOCAL GOVERNMENT FRANCHISE)

To the Electoral Registration Officer for the Parliamentary Constituency of

Address.....

1. Applicant's names in full : (a) Surname (capitals) .. .. (b) Other names .. ..	(a) (b)
2. Full postal address of premises (or land) for which applicant applies to be registered.	
3. (a) Whether applicant on the qualifying date ( <i>see</i> note 3) occupied the said premises (or land) as owner or tenant (tenant includes lodger in a room or rooms let unfurnished, or, in the case of a dwelling house, a person who inhabits it by reason of employment). (b) If so, give description, <i>e.g.</i> , dwelling house, office, shop, unfurnished lodgings, dwelling house, inhabited by employment, market garden, factory, etc.	(a) (Yes or No)  (b)
4. In case of joint occupation of premises (or land) state (a) the number of joint occupiers (b) whether they were partners carrying on their profession, trade or business there, and, if not partners, their names.	(a) (b)
5. Give the address entered on the applicant's civilian identity card on the qualifying date ( <i>see</i> note 2).	
6. If application has been made for registration in a Business Premises register in respect of the same qualifying date give address or addresses of premises concerned ( <i>see</i> note 2).	

The particulars overleaf are true and correct in all respects. I am a British subject and had attained the age of 21 years on the qualifying date; and I make application for the local government franchise to which such particulars entitle me.

Signature of applicant .....

Address of applicant .....

Date.....

## NOTES

1. A person who, on the qualifying date, occupies land or premises as owner or tenant, is entitled to be registered as a local government elector for the local government area or areas concerned, IF HE IS NOT ENTITLED TO THE PARLIAMENTARY VOTE IN RESPECT OF SUCH PREMISES, *i.e.*:—

- (a) If his civilian identity card does not on the qualifying date carry the address of the premises in question (registration in the civilian residence register will entitle a person to the local government as well as the parliamentary vote) *or*
- (b) If he is not entitled to claim the business premises vote in respect of his occupation of such premises (*e.g.* because the annual value is less than £10 or because he is a peer) *or*
- (c) If he is not registered in the service register in respect of such premises. ,

2. A person cannot however be registered in more than one ward of a county borough or borough, not being a metropolitan borough.

3. The qualifying date is..... This application must be received by the Electoral Registration Officer at the address given at the top of the form, on or before.....

4. A peer who is disqualified from voting at a parliamentary election is not required to make application to be registered as a local government elector in respect of the address entered on his identity card on the qualifying date. He is however required to make application on this form if his case falls under (a), (b) or (c) of Note 1.

5. Any person making an application to be registered as a local government elector, knowing that the application contains a false statement, is liable to heavy penalties.

## FORM B: RATEPAYERS REGISTER APPLICATION\* (SCOTLAND)

FORM C: ABSENT VOTERS APPLICATION UNDER SECTION 7 OF THE  
ACT OF 1943

## REPRESENTATION OF THE PEOPLE ACTS

## CLAIM TO BE PLACED ON ABSENT VOTERS LIST

I, (surname).....  
(BLOCK CAPITALS)

(Other names).....

am [qualified to be] registered for

(Address) .....

in the \*[Civilian Residence] \*[Business Premises] Register for

(Constituency).....

and hereby claim to be placed upon the absent voters list on the ground that there is a probability that owing to my occupation (service) (employment as).....

I may be debarred from voting at a poll at parliamentary elections held whilst the register to which this application relates is in force.

Date..... Signed .....

Address to which ballot communications are to be sent (if different from address stated above) .....

**FORM D : APPLICATION TO VOTE BY POST UNDER SECTION 6 (1) OR (3)  
OF THE ELECTIONS AND JURORS ACT, 1945**

**APPLICATION BY CIVILIAN ELECTOR TO VOTE BY POST**

Surname .....  
(BLOCK CAPITALS)

Other names .....  
.....

I am (qualified to be) registered as an elector in the Civilian Residence Register  
for—

(Address) .....  
.....

(Constituency).....

and I apply to be entered on the Absent Voters List because\* (a) I now reside at—

(New Address).....  
(to which a Ballot Paper is to be sent)

.....  
or \*(b) By reason of blindness or other physical incapacity I shall probably be unable  
to vote in person \*(without assistance) while the Register to which this application  
relates is in force and I request that a ballot paper be sent to me at the address stated  
above.

(Note : the Register is in force for one year from October 15th.)

Signed .....

Date.....

\* Strike out inapplicable words.

**CERTIFICATE**

To be completed by a registered medical practitioner where (b) above applies.

I certify that the statement at (b) above is correct.

Date .....

Signed.....

Address.....  
.....

**FORM E : APPLICATION TO VOTE BY POST UNDER SECTION 6 (2) OF  
THE ELECTIONS AND JURORS ACT, 1945**

**APPLICATION TO VOTE BY POST BY CIVILIAN ELECTOR WHO HAS TO TRAVEL BY  
SEA OR AIR**

Surname .....  
(BLOCK CAPITALS)

Other Names .....  
.....

I am (qualified to be) registered as an elector in the Civilian Residence Register  
for—

(Address) .....  
.....

(Constituency).....

and I apply to be entered on the Absent Voters List because I shall probably be  
unable, without making a journey by sea or air, to proceed from the above address to  
a polling place so as to vote in person while the Register, to which this application  
relates, is in force.

(Note : the Register is in force for one year from October 15th.)

Signed .....

Date.....

FORM F: APPLICATION BY ABSENT VOTER TO VOTE BY POST AS PROXY

## REPRESENTATION OF THE PEOPLE ACTS

## ABSENT VOTERS CLAIM TO VOTE BY POST AS PROXY

I, (surname).....  
(BLOCK CAPITALS)

Other Names .....

am (qualified to be) registered for—

(Address) .....

(Constituency).....

and I am qualified to be entered in the absent voters list for the above constituency by reason of—

\*the nature of my occupation, etc.,

\*removal from the above address.

\*physical incapacity,

\*the need to travel from the above address by sea or air to vote.

and I therefore claim to vote by post in respect of my vote as proxy for the following service voters :

Name .....

Qualifying Address.....

Address to which ballot communications are to be sent (if different from address stated above) .....

\* Delete where not required.

Signed .....

Date.....

# FORM G: PROXY APPLICATION FORM

TO THE REGISTRATION OFFICER—

The Elector *must* }  
insert here his }  
surname and other } ..... hereby  
names in full. }

state that there is a probability that I shall, at the time of a parliamentary election, be at sea or out of the United Kingdom, and that I desire to appoint as proxy to vote for me at any such election the person nominated below as First Choice or (if he or she is not qualified or is unwilling to act) the person nominated below as Second Choice.

PERSON TO BE APPOINTED PROXY. (See Footnote.)

1. The Elector <i>must</i> fill this up.	{	Names of First Choice .....
		Postal Address of First Choice .....
		Relationship, if any, of First Choice of Elector .....
2. The Elector should fill this up as the First Choice may be unwilling or not qualified to act.	{	Names of Second Choice .....
		Postal Address of Second Choice .....
		Relationship, if any, of Second Choice of Elector .....

3. The Elector should fill this up to the best of his ability. { 
 POSTAL ADDRESS OF PREMISES  
 FOR WHICH ELECTOR IS REGISTERED.
  } .....

I apply for the issue of a proxy paper appointing as my proxy the person, or one of the persons nominated above.

The Form must be properly signed, witnessed and dated { *Signature of Elector* .....

State nature of occupation, e.g. commercial traveller. { *Occupation of Elector* .....

The Witness must be a person to whom the Elector is known. { *Witnessed by* .....

If Witness is in the Forces, state number (if any), ship, unit and corps, rank, rating, etc. { *Service or occupation of Witness* .....

This need not be given if Witness is in the Forces and Service particulars are given { *Postal Address of Witness* .....

Date .....

**WHO MAY BE PROXIES.**—A person to be proxy must be a British subject of full age and not subject to any legal incapacity. If the person appointed proxy is not the wife, husband, parent, grandparent, brother or sister of the elector, the person cannot vote as proxy for more than two electors at an election in any constituency.

#### FORM H: CANCELLATION OF PROXY APPOINTMENT

If you desire to cancel the appointment, you can do it by writing to the Registration Officer of the County or Borough in the following terms or to the like effect—

I, .....  
 being registered as a Parliamentary elector in respect of the following premises\*

.....

hereby cancel any proxy paper issued in respect of the above qualification.

Signed .....

† Witnessed by .....

Date .....

If the person appointed as proxy for you dies, the proxy paper will become void, and, on giving notice of the death to the Registration Officer, you can make a fresh application for the appointment of a proxy without any formal cancellation of the original paper. If you wish to change the person appointed as proxy for you it will be necessary for you to cancel your previous appointment and make a fresh application for the appointment of another proxy.

\* Insert address of qualifying premises, including, if possible, the county, or borough, or parish, as the case may be.

† The witness should be some person to whom the elector is known.

FORM J : APPLICATION BY PROXY TO VOTE BY POST UNDER  
SECTION 7 OF THE ELECTIONS AND JURORS ACT, 1945

APPLICATION BY PROXY TO VOTE BY POST

Surname .....  
(BLOCK CAPITALS)

Other Names .....

(Address) .....  
(TO WHICH A BALLOT PAPER IS TO BE SENT)

I have been appointed as proxy for :

.....  
(\*NAME OF VOTER)

who is registered as a service voter in respect of.....

.....  
(\*QUALIFYING ADDRESS)

(\*AS SHOWN ON PROXY PAPER R.P.W. 102)

and I apply to be entered on the list of postal proxy voters to enable me to vote by post as proxy for the above named.

Signed .....

Date..... [127]

PART IV

*Forms of Declaration of Residence, etc.*

1. The forms of declaration of residence and proxy appointment prescribed by the First Schedule to the Act of 1945 and by these regulations for members of the forces, seamen, and war workers respectively shall in each case be printed on the front and back of the same card.

2. For the purpose of making a declaration of residence without appointing a proxy the back of the card shall be disregarded.

3. For the purpose of making a proxy appointment without at the same time making a declaration of residence the back of the card shall be filled in and on the front of the card the names and qualifying address of the person making the appointment and, in the case of a member of the forces or a seaman, also his service particulars.

4. For the purpose of cancelling a declaration of residence without at the same time making a new declaration only the names, qualifying address and date shall be filled in on the front of the card, and the back of the card shall be disregarded.

5. For the purpose of giving notice of the cancellation of a proxy appointment the back of the card shall be filled in, except that the space for the name of the proxy shall be left blank or shall contain the words " appointment cancelled " or words to that effect, and on the front of the card the same particulars shall be given as under paragraph 3 of this Part of this Schedule are to be given in the case of a separate proxy appointment. [128]



## FOURTH SCHEDULE

## POSTAL VOTING AREAS

The continent of Europe west and south of a line from the Baltic to the Mediterranean so drawn as to exclude Poland, Czechoslovakia, Hungary, Rumania, Bulgaria and Turkey (except Switzerland, Spain and Portugal).

Norway.

The Isle of Man, the Channel Islands, the Azores, and the islands of the Mediterranean (except the Balearics).

Palestine.

Syria.

Lebanon.

Transjordan.

Iraq.

The Protectorate of Aden.

Persia.

India.

Burma.

Ceylon.

The continent of Africa.

The United States of America.

Canada.

Newfoundland.

Iceland. [129]

## THE LOCAL ELECTIONS (SUPPLEMENTARY PROVISIONS) ORDER, 1946

*S. R. & O.*, 1946, No. 19

*January 8, 1946*

This Order amends the Local Elections (Supplementary Provisions) Order, 1945 (*S. R. & O.*, 1945, No. 706).

1.—(1) This Order may be cited as the Local Elections (Supplementary Provisions) Order, 1946.

(2) This Order shall not extend to Scotland. [130]

2. At the end of Article 5 of the Local Elections (Supplementary Provisions) Order, 1945 (which relates to the retirement on the appropriate date of councillors of boroughs or districts in which there has been an alteration in the number of councillors or boundaries since the ordinary elections in 1936, or, in the case of districts, in 1937), there shall be added the following paragraph :—

“(2) In this Article the expression ‘ward’ means, in relation to a rural district, a parish or combination of parishes or ward of a parish”.

[131]

3. Articles 6 and 7 of the said Order (which relate to the retirement of councillors in wards where the number of councillors is not divisible by three and to wards where all the councillors except one retire on the appropriate date) shall not apply to a rural district; and accordingly in those Articles the words “Except as provided in Article 8 of this Order” (wherever they occur) shall be omitted, and for the word “district” (wherever it occurs) there shall be substituted the words “urban district”. [132]

4. For article 8 of the said Order there shall be substituted the following Article :—

**“ 8. Rural district where retirement on first and second anniversaries is not determined by county council.**—In a rural district to which a rotation in thirds provision applies, not being a rural district in which the order of retirement of the councillors was at the time of the passing of the Act of 1945 determined in accordance with directions given under subsection (5) of section thirty-five of the Local Government Act, 1933, by the county council, the number of councillors for any parish, combination of parishes or ward of a parish to retire under subsection (3) of section five of the Act of 1945 on the first and second anniversaries of the appropriate date shall be on the first anniversary the same number as would have retired on the fifteenth day of April, 1941, and on the second anniversary the same number as would have retired on the fifteenth day of April, 1942, if an election had been held under the Local Government Act, 1933, in each of those years.” [133]

5. At the end of Article 10 of the said Order (which relates to elections in boroughs or districts consequent upon an order of which the operation was suspended by reason of the Act of 1939) there shall be added the following paragraph :—

“(2) In this Article the expression ‘ ward ’ means, in relation to a rural district, a parish or combination of parishes or ward of a parish.”

[134]

\* \* \* \* \*

## THE LOCAL ELECTIONS (SUPPLEMENTARY PROVISIONS) (NO. 2) ORDER, 1946

*S. R. & O., 1946, No. 1676*

*October 16, 1946*

1. **Short title and extent.**—(1) This Order may be cited as the Local Elections (Supplementary Provisions) (No. 2) Order, 1946.

(2) This Order shall not extend to Scotland. [135]

2. **Casual vacancies in boroughs or urban districts within six months before first or second anniversary of appropriate date.**—(1) Where a casual vacancy occurs or has occurred within six months before the first or second anniversary of the appropriate date in the office of councillor of a borough or an urban district and the councillor in respect of whose office the vacancy occurs or has occurred would, but for the vacancy, have retired on the first or second anniversary of the appropriate date, as the case may be, that councillor shall, for the purpose of the rotation in thirds provision and subsection (3) of section five of the Representation of the People Act, 1945, be deemed to continue or to have continued in office until the first or second anniversary of the appropriate date, as the case may be.

(2) In this Article the expression “ appropriate date ” means—

(a) in relation to a borough, the first day of November, 1945; and

(b) in relation to an urban district, the fifteenth day of April, 1946; and

the expression “ rotation in thirds provision ” has the same meaning as in section five of the Representation of the People Act, 1945. [136]

**3. Casual vacancy election combined with ordinary election in boroughs in 1946 and in urban districts in 1947 or held before next following ordinary election.**—Where an election to fill a casual vacancy in the office of councillor of a borough or an urban district is combined with the ordinary election of councillors to be held in the case of a borough in the year nineteen hundred and forty-six and in the case of an urban district in the year nineteen hundred and forty-seven or is held after that ordinary election and before the next following ordinary election, the councillor elected to fill the casual vacancy shall, notwithstanding anything in subsection (3) of section five of the Representation of the People Act, 1945, hold office until the date upon which the person in whose place he is elected would, but for the casual vacancy, have retired, and shall then retire. [137]

\* \* \* \* \*

## CASES

*Elections — Parliamentary — Nomination — Sufficiency of description of candidate—Opinion of returning officer—Removal of surplusage—Ballot Act, 1872 (c. 33), Sched. I, Pt. I, rr. 6, 9, 22.*

The plaintiff was a candidate at a Parliamentary election. The defendants were the returning officer—the Lord Mayor—and the Town Clerk. The plaintiff's nomination paper described him as "Honorary Secretary, Moss Side Tenants' Protection Society," which was not a society in the ordinary accepted sense of the term. On the public notice and on the ballot paper the plaintiff was described as "Secretary." The plaintiff, on the ground that the notice and the ballot paper did not accord with the nomination paper, as required by the Ballot Act, 1872, Sched. I, Pt. I, rr. 9 and 22, claimed, against the defendants, the penalty provided by s. 11 of the Act for wilful misfeasance or wilful act or omission in contravention of the Act, and for damages :—

*Held* : (i) under Sched. I, Pt. I, r. 6, of the Act, the opinion in regard to sufficiency of description and of identification of the candidate was the opinion of the returning officer, who having honestly formed the opinion that the original words of the nomination paper were excessive, and that the word "secretary" was a description, which, in his opinion, was calculated sufficiently to identify the candidate, could not be said to have been guilty of a wilful misfeasance or wilful act or omission in contravention of the Act.

(ii) The notice and the voting paper did in fact accord with the nomination paper as altered by the returning officer to make it valid.—EDWARDS v. JACKSON AND DINGLE, [1946] 2 All E. R. 129 ; 96 L. Jo. 357 ; 110 J. P. 297. [138]

## ELECTRICITY SUPPLY

### ORDERS, CIRCULARS AND MEMORANDA :—

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Defence (General) Regulations, 1939, Regulation 60CB amended - - - -	69

## ORDERS, CIRCULARS AND MEMORANDA

THE ELECTRICITY COMMISSIONERS SPECIAL ORDERS,  
ETC., RULES, 1930, RELAXATION (REVOCATION)  
ORDER, 1946

*S. R. & O.*, 1946, No. 518

April 8, 1946

The Minister of Fuel and Power in pursuance of Regulations 56 and 98 of the Defence (General) Regulations, 1939, as having effect by virtue of the Supplies and Services (Transitional Powers) Act, 1945, hereby orders as follows :—

1. The Electricity Commissioners Special Orders, etc., Rules, 1930, Relaxation Order, 1940, is hereby revoked. [139]

2. This Order shall come into force on the first day of May, 1946, and may be cited as The Electricity Commissioners Special Orders, etc., Rules, 1930, Relaxation (Revocation) Order, 1946. [140]

\* \* \* \* \*

### EXPLANATORY NOTE

*This Order revokes as from the first day of May, 1946, The Electricity Commissioners Special Orders, etc., Rules, 1930, Relaxation Order, 1940, which relaxes Rule IV of The Electricity Commissioners Special Orders, etc., Rules, 1930, so as to enable the Electricity Commissioners in certain cases to dispense with the requirements of the Rule or to direct modification in the form of any notice to be published under the Rule.*

## ORDER IN COUNCIL AMENDING REGULATION 60CB OF THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O.*, 1946, No. 162

*February* 19, 1946

1. In paragraph (1) of Regulation sixty CB of the Defence (General) Regulations, 1939 (which suspends the certification of electricity meters for the purposes of the Schedule to the Electric Lighting (Clauses) Act, 1899) for the words "shall be suspended" there shall be substituted the words "shall not be obligatory but such certification may be carried out in the case of a particular meter or meters at the request of the authorised undertakers and on payment by them of the fee prescribed under section one of the Electricity Supply (Meters) Act, 1936". [141]

2. After paragraph (2) of the said Regulation there shall be inserted the following paragraph :—

“(2A) The period of ten years specified in section three of the Electricity Supply (Meters) Act, 1936 (which provides that certain meters shall be deemed to be proper meters for ascertaining the value of a supply), being the period after which that section is to cease to apply to any meters, shall be extended by a period of two years.” [142]

\* \* \* \* \*

Note as to S. R. & O., 1946, No. 162.—*The existing paragraph (1) of Regulation sixty CB of the Defence (General) Regulations, 1939, suspends entirely the certification of meters for the purposes of the Schedule to the Electric Lighting (Clauses) Act, 1899, and paragraph (2) of the Regulation provides that meters of the approved construction and pattern which are installed during the period for which paragraph (1) is in force shall be treated as duly certified meters. Article 1 of the new Order amends paragraph (1) of the Regulation so that, instead of certification being completely suspended, it can be carried out at the request of authorised undertakers. Paragraph (2) of the Regulation, however, remains in force so as still to cover cases where certification has not been carried out.*

*Article 2 deals with a matter arising in consequence of the suspension of certification. Section one of the Electricity Supply (Meters) Act, 1936, established a new system under which meters had to be certified by examiners appointed by the Electricity Commissioners. Section three of the Act allowed a period of grace, not exceeding ten years, during which meters installed before the appointed day (within the meaning of that Act) were to be treated as properly certified. This period is now extended for a period of two years, which is less than the period during which certification of meters has been wholly suspended by Regulation sixty CB.*

## FACTORIES

### ORDERS, CIRCULARS AND MEMORANDA :—

Distribution of Industry (Development Areas) Order, 1946—	PAGE
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## ORDERS, CIRCULARS AND MEMORANDA

### THE DISTRIBUTION OF INDUSTRY (DEVELOPMENT AREAS) ORDER, 1946

S. R. & O., 1946, No. 197

February 16, 1946\*

The Board of Trade in pursuance of the powers conferred upon them by subsection (2) of Section 7 of the Distribution of Industry Act, 1945, hereby order and direct as follows :—

1. The following areas shall be added to the First Schedule to that Act (which specifies the areas that are “development areas”), that is to say :—

*The Wrexham area.*

In the Administrative County of Denbigh—

The Borough of Wrexham.

Within the Rural District of Wrexham, the parishes of Llay, Gwersyllt, Broughton, Brymbo, Bersham, Minera, Esclusham Above, Esclusham Below, Erthig, Rhosllanerchrugog, Pen-y-cae, Cefn, Ruabon, Marchwiel, Sesswick, Abenbury, Isycoed, Holt, Bieston, and Gresford.

\* This Order was approved by resolutions of the House of Lords, March 12, 1946, and the House of Commons, March 18, 1946, in accordance with s. 7 (5) of the Distribution of Industry Act, 1945.

*The South Lancashire area.*

The County Boroughs of Wigan and St. Helens.

In the Administrative County of Lancaster—

The Urban Districts of Standish with Langtree, Blackrod, Aspull, Westhoughton, Hindley, Ince in Makerfield, Abram, Ashton in Makerfield, Golborne, Newton-le-Willows, Haydock, Billinge and Winstanley, Orrell, and Upholland and Skelmersdale.

Within the Rural District of Wigan, the parishes of Shevington and Haigh. [143]

2. This Order may be cited as the Distribution of Industry (Development Areas) Order, 1946. [144]

\* \* \* \* \*

## FINANCE

STATUTES :—	PAGE		PAGE
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## STATUTES

### LOCAL GOVERNMENT (FINANCIAL PROVISIONS) ACT, 1946

(9 & 10 Geo. 6, c. 24)

#### PRELIMINARY NOTE

The Local Government Act, 1929, s. 86 (10 Halsbury's Statutes 938) provides for the annual payment of general exchequer contributions, or block grants, towards the expenses of local authorities in counties and county boroughs. These grants were to be paid during fixed grant periods, the first period being for three years from the commencement of the Act (1930-1933), the second for the four succeeding years (1933-1937), and third and subsequent periods were each to be of five years' duration. The amount of the grant was to be revised for each new period. The third fixed grant period, which would normally have terminated on March 31, 1942, was extended by the Local Government (Financial Provisions) Act, 1941 (34 Halsbury's Statutes 175), until such date after the expiration of the Emergency Powers (Defence) Act, 1939 (32 Halsbury's Statutes 930), as Parliament may determine. At the same time the amount of the grant for the extended period was stabilised at £46,172,000, which was the amount fixed by the Local Government (Financial Provisions) Act, 1937 (30 Halsbury's Statutes 377) for each year in the third fixed grant period, 1937-42.

It has been calculated that, but for the stabilisation of the grant, an additional sum of £7,000,000 a year would have been payable to local authorities, based on expenditure incurred by them in the year 1940-41.

Conditions are not yet considered to be sufficiently settled for a normal revision of the block grant to be made, but, on the other hand, the expenditure of local authorities will begin to rise again now that the war is over and the stabilised block grant will be insufficient for their purposes. Some additional financial assistance will therefore be necessary pending a block grant revision and the present Act accordingly authorises the payment of an interim grant in addition to the general exchequer grant for each of the three years from April 1, 1945, to March 31, 1948.

S. 1 of the Act provides that there shall be paid towards the local government expenses in counties and county boroughs an interim supplementary exchequer contribution in respect of the years beginning on April 1, 1945, 1946 and 1947 respectively. The three years are known as the first, second and third supplementary contribution years and the interim contributions for those years are to be respectively £10,000,000, £11,000,000 and £12,000,000. These grants are to be paid in addition to the stabilised block grant of £46,172,000. The section also provides that on the eventual calculation of a new block grant, the expenditure to be used as the basis of calculation, in accordance with the 1937 Act, shall include, in addition to expenditure met out of rates and existing block grant, expenditure met out of the new interim grant and out of advances made by the Minister of Health to local authorities in financial difficulties as a result of the war.

S. 2 contains complicated provisions for apportioning the interim grant amongst counties and county boroughs. Apportionment is based upon the expenditure which local authorities incurred in the year 1942-43 and the aim is to produce a bias in favour of the poorer authorities most in need of help. Details of the way in which the apportionment is made will be found in the notes to the section, *post*.

After the apportionment of the interim grant amongst counties and county boroughs has been accomplished as above stated, there remains the question of payments out of a county grant to districts within the county. No question of a further distribution of the county borough grant arises since the county borough is itself an all purpose authority and the whole of the apportioned sum is payable to it (s. 5). Payments must, however, be made out of county grants to the districts within the counties since local government functions are distributed among these districts, and ss. 3 and 4 accordingly make the following provision for such payments. Out of any sum apportioned for a year to a county, other than the county of London, there is to be set aside a sum sufficient to make prescribed capitation payments to districts within the county, the balance then being payable to the county council. If the amount apportioned to a county is insufficient to make the prescribed payments, or if no amount is apportioned, the county council is to contribute a sum equal to the deficiency, or is to contribute the whole amount as the case may be. Capitation payments are to be based on the population of a district in the year 1936 as estimated by the Registrar-General. In the case of a non-county borough or urban district the capitation rates for the first, second and third supplementary contribution years are respectively 24*d.*, 27*d.* and 30*d.*, and in the case of a rural district they are 8*d.*, 9*d.* and 10*d.* As regards the county of London there is to be set aside from the apportioned grant a sum sufficient to provide for making to the common Council of the City of London and to the councils of metropolitan boroughs payments to be calculated in accordance with a scheme to be made by the Minister of Health after consultation with those authorities. The residue is to be paid to the London County Council. As in the case of other county councils, the London County Council must, if necessary, contribute sufficient to make the necessary payments to these other authorities.

Among supplementary provisions in s. 6, which provides for the manner and time of payment of interim grants and of any contributions which county councils may have to make under s. 3 to make up deficiencies in capitation payments to county districts. It also provides that the grant payable to a county council shall be applicable for general county purposes. S. 7 empowers the Minister of Health to reduce the grant payable to a council in certain circumstances and also empowers him to make regulations on certain points. S. 8 is an interpretation section. [145]



## ARRANGEMENT OF SECTIONS

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*An Act to provide for the payment out of the Exchequer in respect of three years of grants towards local government expenses supplementary to the General Exchequer Contribution, for the making in certain contingencies of contributions by county councils towards such grants, and for purposes connected therewith.*

[146] [14th February, 1946.]

**1. Payment of Interim Supplementary Exchequer Contributions for three years.**—(1) A contribution towards local government expenses in counties and county boroughs, to be called the “Interim Supplementary Exchequer Contribution,” shall be paid out of moneys provided by Parliament in respect of the years beginning on the first day of April, nineteen hundred and forty-five, nineteen hundred and forty-six and nineteen hundred and forty-seven respectively (in this Act referred to respectively as the first, second and third supplementary contribution years). [147]

(2) The amount of the Interim Supplementary Exchequer Contribution for the said years respectively shall be—

- (a) for the first supplementary contribution year, ten million pounds ;
- (b) for the second supplementary contribution year, eleven million pounds ;
- (c) for the third supplementary contribution year, twelve million pounds.

[148]

(3) The Interim Supplementary Exchequer Contribution for each of the said years shall be paid in addition to the General Exchequer Contribution for that year, and, except as therein expressly provided, nothing in this Act shall affect the payment of any grant under the enactments relating to that Contribution. [149]

(4) In section one of the Local Government (Financial Provisions) Act, 1937 (which provides that the General Exchequer Contribution for the fourth or any subsequent fixed grant period shall be of an amount bearing a proportion not less than is therein mentioned to the total amount of rate and grant borne expenditure in the penultimate year of the preceding fixed grant period), the references to grant borne expenditure shall include references to such local expenditure as fell to be borne by grants paid under this Act and to such local expenditure as the Minister may determine to have fallen to be borne by advances made by him, out of moneys provided by Parliament, otherwise than under this Act or the Local Government Act, 1929, or any other enactment relating to the functions of local authorities. [150]

*Effect of section.*—See Preliminary Note, *ante*.

*General Exchequer Contribution.*—See the Local Government Act, 1929, s. 86 (10 Halsbury's Statutes 938), which provides for the payment of this contribution.



*Local Government (Financial Provisions) Act, 1937, s. 1.*—30 Halsbury's Statutes 377. This section provides that the general exchequer contribution for the fourth or any subsequent fixed grant period, exclusive of any increase made therein in pursuance of s. 4 of the Midwives Act, 1936 (29 Halsbury's Statutes 268), shall be an amount bearing to the total amount of rate and grant borne expenditure in the penultimate year of the preceding fixed grant period a proportion not less than 22½ per cent.

*Advances by Minister.*—These are advances which the Minister of Health may make to local authorities who are in financial difficulties as a result of the war.

*Local Government Act, 1929.*—10 Halsbury's Statutes 883.

*Definitions.*—For definitions of "county," "the Minister," "rate and grant borne expenditure," see s. 8, *post*.

**2. Apportionment amongst counties and county boroughs.**—(1) The Interim Supplementary Exchequer Contribution in respect of each of the supplementary contribution years shall be apportioned amongst the several counties and county boroughs in accordance with the following provisions of this section. [151]

(2) For the purposes of the apportionment for the first supplementary contribution year, there shall be ascertained in the case of each county and county borough the amount by which the produce of a rate of eight pence in the pound levied in that county or county borough for the year to be regarded for computation purposes (which shall be the year beginning three years before the beginning of the first supplementary contribution year) shows a deficiency as compared with the amount yielded for that county or county borough by making the following computation, that is to say—

(a) by first adding to the amount of the Interim Supplementary Exchequer Contribution for the first supplementary contribution year the aggregate of the produces of rates of eight pence in the pound levied in all counties and county boroughs for the year to be regarded for computation purposes ; and

(b) by then assigning to that county or county borough a part of the sum obtained by the said addition bearing to the whole thereof the same proportion as the rate and grant borne expenditure of that county or county borough in the year to be regarded for computation purposes bears to the aggregate of the rate and grant borne expenditure of all counties and county boroughs in that year ;

and the apportionment shall be amongst the several counties and county boroughs in the case of which deficiencies are shown in proportion to the respective amounts of those deficiencies. [152]

(3) For the purposes of the apportionment for the second and third supplementary contribution years, the provisions of subsection (2) of this section shall be applied with the substitution, for references to a rate of eight pence in the pound, of references to rates of nine pence and of ten pence in the pound respectively, and, for references to the first supplementary contribution year, of references to the second and third supplementary contribution years respectively. [153]

*Apportionment of grant.*—The method of apportioning the interim grant amongst counties and county boroughs is explained in detail in the Explanatory and Financial Memorandum accompanying the Bill as follows :—

"Apportionment for the year 1945-46 is arrived at] by adding the product of a rate of 8d. summed for the whole country to the new grant of £10 millions. The result will be to produce a total amount of about £19,280,000. This amount will be apportioned between the counties and county boroughs in proportion to their expenditure in 1942-43 which was met out of rates, block grant and advances to local authorities in financial difficulties. From the amount apportioned to each county and county borough will be deducted the product of a rate of 8d. in that county or county borough. The net result will be to distribute £10,000,000 with a heavy weighting in favour of the poorer areas. If the £10 millions were distributed uniformly it would lower all rates by about 8½d. ; under the method proposed it is provisionally estimated that the amounts allocated to Merthyr Tydfil (rates 29s.) will be equivalent to a rate of 2s. 9d., to West Ham (rates 21s. 6d.) to a rate of 1s. 9d., and to Carmarthen (average rate over the county 19s. 1d.) to a rate of 2s. 1d. At the other extreme Bournemouth (rates 9s. 0d.) will get 1d. benefit, Blackpool (rates 11s. 0d.), 1½d. benefit and Surrey (average rate over the county 11s. 2d.) about 3d. benefit.

"In respect of the years 1946-47 and 1947-48 the sums to be apportioned will be £11 millions plus the product of a 9d. rate (£21,685,000 approximately) and £12 millions plus the product of a 10d. rate (£24,080,000 approximately) respectively. These sums will be apportioned on the basis of the expenditure of the counties and county boroughs in the year 1943-44 and 1944-45 respectively and from the share of each county and county borough will be deducted the local product of rates of 9d. and 10d. respectively in those two years. The result will be to distribute net amounts of £11 millions and £12 millions and the weighting in favour of the poorer authorities will be progressively increased."

*Definitions.*—For definitions of "county," "produce of a rate of eight pence in the pound," "rate and grant borne expenditure," see s. 8, *post*.

**3. County grants.**—(1) Out of any sum apportioned under the last preceding section for any year to a county, other than the county of London, there shall be set aside such amount as will be sufficient to provide for making, in the case of county districts situate within that county, the payments required by the next succeeding section to be made for that year to the councils of county districts; and the residue of any sum so apportioned, after the amount aforesaid has been set aside, shall be paid to the council of the county. [154]

(2) Out of any sum apportioned under the last preceding section for any year to the county of London there shall be set aside such amount as will be sufficient to provide for making to the common council of the City of London and to the councils of metropolitan boroughs the payments required by the next succeeding section to be made for that year to those councils; and the residue of any sum so apportioned, after the amount aforesaid has been set aside, shall be paid to the London County Council. [155]

(3) If in the case of any county—

(a) a sum is apportioned under the last preceding section for any year to that county less than the amount mentioned in subsection (1) or (2) of this section in respect of that year; or

(b) by reason of there being no deficiency shown in the case of that county on the ascertainment made under the last preceding section for the purposes of the apportionment of the Interim Supplementary Exchequer Contribution in respect of any year, no sum is apportioned under that section for that year to that county,

the council of that county shall contribute for that year a sum equal to the deficiency in the amount mentioned in subsection (1) or (2) of this section, or to the whole of that amount, as the case may be, and that contribution shall be set aside to make up the amount so mentioned. [156]

*Effect of section.*—See Preliminary Note, *ante*.

*Contribution by county council.*—As to payment of this contribution, see s. 6 (2), *post*. A contribution will have to be made by a county council when either the sum apportioned to the county under s. 2, *ante*, is insufficient to meet the prescribed capitation payments to the districts, or no sum is apportioned by reason of there being no deficiency shown on an ascertainment made under the section.

*Definitions.*—For definitions of "county," "county of London," see s. 8, *post*.

**4. County district, City of London, and metropolitan borough grants.**—

(1) There shall be paid, for each of the supplementary contribution years to the council of each county district, out of what is set aside for that purpose under the last preceding section for that year, a sum equal to the following amount per head of the population thereof in the year nineteen hundred and thirty-six, as estimated by the Registrar General of births, deaths and marriages, that is to say—

(a) in the case of a non-county borough or urban district, for the first, second and third supplementary contribution years respectively, twenty-four pence, twenty-seven pence, and thirty pence, respectively;

(b) in the case of a rural district, for those years respectively, eight pence, nine pence and ten pence, respectively. [157]

(2) There shall be paid for each of the supplementary contribution years to the common council of the City of London and to the council of each metropolitan borough, out of what is set aside for that purpose under the last preceding section for that year, a sum calculated in accordance with a scheme to be made by the Minister, after consultation with the London County Council, the common council of the City of London, and any association or committee which appears to him to be representative of metropolitan borough councils. [158]

*Effect of section.*—See Preliminary Note, *ante*.

*Supplementary contribution years.*—See s. 1, *ante*.

*Proportion as between urban and rural districts.*—Whereas the block grant is distributed between urban and rural districts in a ratio of 5-1 in favour of urban districts, this interim grant, in recognition of the increased responsibilities of rural districts, is distributed in the reduced ratio of only 3-1 in favour of urban districts.

*The Minister.*—This is the Minister of Health (see s. 8, *post*).

**5. County borough grants.**—The whole of any sum apportioned under section two of this Act for any year to a county borough shall be paid to the council thereof. [159]

**6. Payment of grants, and of any contributions by county councils, and disposal of county grants.**—(1) A sum to be paid under this Act to a council, in this Act referred to as an "Interim Supplementary Exchequer Grant" of that council, shall be paid out of moneys provided by Parliament in such manner and at such time as the Treasury may direct. [160]

(2) A contribution to be made under this Act by the council of a county shall be paid to the Minister at such time as he may direct and shall be paid by him into the Exchequer, or, if the Minister so directs, the liability to make such a contribution shall be discharged in whole or in part by deduction from any General Exchequer Grant payable to the council of the county. [161]

(3) Interim Supplementary Exchequer Grants of the council of a county shall be applicable for general county purposes. [162]

*Contribution by county council.*—As to circumstances in which a contribution will require to be made, see s. 3 (3), *ante*.

*Definitions.*—For definitions of "county," "the Minister," see s. 8, *post*.

**7. Application of certain provisions of Part VI of 19 & 20 Geo. 5, c. 17.**—The following provisions in Part VI of the Local Government Act, 1929, shall apply for the purposes of this Act as they apply for the purposes of that Part of that Act, that is to say—

(a) section one hundred and four of that Act (which relates to the reduction of grants in the circumstances therein mentioned);

(b) paragraph (b) of subsection (1) of section one hundred and eight thereof (which confers power to make regulations as to adjustments in consequence of alterations of boundaries and like matters), with the substitution for the reference therein to the appointed day of a reference to the first day of April, nineteen hundred and forty-five, and with the addition to the reference to grants of a reference to any contributions to be made by councils of counties; and

(c) paragraph (c) of subsection (1) of section one hundred and eight thereof (which confers power to make regulations as to calculations and estimates and like matters). [163]

*Local Government Act, 1929, Part VI.*—10 Halsbury's Statutes 937. This Part deals with Exchequer Grants and other financial matters. S. 104 (*ibid.* 948) empowers the Minister of Health to reduce the grant payable in respect of any year under Part VI of the Act to any council by such amount as he thinks just if he is satisfied (1) that the council have failed to achieve or maintain a reasonable standard of efficiency and progress in the discharge of their functions relating to public health services, and that the health or welfare of the inhabitants of their area has been, or is likely to be, thereby endangered, or (2) that the council's expenditure has been excessive and unreasonable or (3) if the Minister of Transport certifies that he is satisfied that the council have failed to maintain their roads in a satisfactory condition. S. 108 (1) (b) (*ibid.* 950) empowers the Minister of Health to make regulations as to the manner

in which the amounts of any grants payable under Part VI of the Act are to be adjusted if and so far as any such adjustment is required in consequence of any alterations or combinations of authorities or alterations of boundaries taking effect on or after the appointed day, namely, April 1, 1930. Para. (c) of the above sub-section (*ibid.*) provides for the making of regulations as to the manner in which any calculation or estimate is to be made for the purposes of Part VI of the Act, and as to the authority or person by or to whom any information required for the purposes of any such calculation or estimate is to be given, and as to the time at which and the form in which it is to be given; and, in particular, the regulations as to the manner in which expenditure falling to be borne by rates is to be calculated or estimated may provide for that expenditure being taken in appropriate cases to be the amount of the payments made in any year, and may provide for such adjustment as may be necessary to correct any abnormal treatment of income or expenditure in accounts.

**8. Definitions.**—In this Act the following expressions have the meanings hereby assigned to them respectively, that is to say—

- “county” means an administrative county, but does not include a county borough, and “county of London” means the administrative county of London;
- “the Minister” means the Minister of Health;
- “produce of a rate of eight pence in the pound” means, in the case of references to such a rate levied in a county, the aggregate of the produces of such rates levied in all rating areas in the county, and, in the case of references to such a rate levied in a county borough, the produce of such a rate levied in the borough, and in both cases the produce of such a rate levied for the year that is to be regarded for computation purposes shall be ascertained in accordance with the following provisions, that is to say,—

(a) the produce of a rate of eight pence in the pound levied in any rating area for any year shall be deemed to be an amount bearing the same proportion to the produce of the general rate or rates made for that area for that year (treating rates made for any period in that year as made for that year) as the sum of eight pence bears to the total amount in the pound of the general rate or rates so made;

(b) for the purposes of the preceding paragraph, the produce of a rate or rates made for any rating area for any year shall be deemed to be the amount actually realised during that year by the collection of rates in that area;

(c) where it is desired to ascertain the produce of a rate of eight pence in the pound levied in any rating area comprising two or more parts which are differentially rated, the produce of such a rate levied in each of those parts shall be separately ascertained in accordance with the preceding paragraphs, with the substitution for references to a rating area of references to each of those parts, and the sum of the amounts so ascertained shall be the produce of a rate of eight pence in the pound levied in that area;

and references to the produces of rates of nine pence and ten pence in the pound respectively shall be construed in like manner with the substitution, for references to eight pence, of references to nine pence and to ten pence respectively;

- “rate and grant borne expenditure” means such local expenditure as fell to be borne by rates and by grants made under Part VI of the Local Government Act, 1929, out of the General Exchequer Contribution, and such local expenditure as the Minister may determine to have fallen to be borne by advances made by him, out of moneys provided by Parliament, otherwise than under that Act or any other enactment relating to the functions of local authorities. [164]

9. **Short title, citation and extent.**—(1) This Act may be cited as the Local Government (Financial Provisions) Act, 1946, and this Act and the Local Government Acts, 1929 to 1941, may be cited together as the Local Government Acts, 1929 to 1946. [165]

(2) This Act shall not extend to Scotland or to Northern Ireland. [166]

(3) This Act shall, in its application to the Isles of Scilly, have effect subject to such exceptions, adaptations and modifications as the Minister may by order direct. [167]

*Local Government Acts, 1929 to 1941.*—These are the Local Government Act, 1929 (10 Halsbury's Statutes 883), the Local Government (Financial Provisions) Act, 1937 (30 Halsbury's Statutes 377), and the Local Government (Financial Provisions) Act, 1941 (34 Halsbury's Statutes 175).

*Application to Isles of Scilly.*—See the Isles of Scilly Order, 1946 (S. R. & O., 1946, No. 1997).

## THE PUBLIC WORKS LOANS ACT, 1946

(9 & 10 Geo. 6, c. 41)

### PRELIMINARY NOTE

S. 1 deals with the appointment of Public Works Loan Commissioners. The provisions of the Public Works Loans Act, 1875, s. 4 (12 Halsbury's Statutes 255), under which they were previously appointed by Act of Parliament every five years, are repealed, and in future they are to be appointed by His Majesty. They will be twelve in number with a term of office of four years, three of them retiring every year. Transitional provision is made for the retirement of three of the first twelve Commissioners appointed in each of the years 1947, 1948 and 1949.

Ss. 2, 3 and 4 contain provisions similar to those to be found in previous Public Works Loans Acts (*cf.* the Act of 1944; 37 Halsbury's Statutes 385). S. 2 provides for the issue to the Commissioners of sums up to £150 millions for the purpose of local loans until the passing of the next Act for that purpose (*viz.* the Public Works Loans (No. 2) Act, 1946, *post*). Ss. 3 and 4 and Sched. I provide for the writing off of loans. [168]

*An Act to make further provision as to the appointment of the Public Works Loan Commissioners, to grant money for the purpose of certain local loans out of the Local Loans Fund and for other purposes relating to local loans.* [169]

[26th March, 1946.]

1. **Appointment of Public Works Loan Commissioners.**—(1) As from the first day of April, nineteen hundred and forty-six, the Public Works Loan Commissioners, instead of being appointed by Act of Parliament, shall be appointed by His Majesty. [170]

(2) The number of Commissioners shall be twelve, and two Commissioners shall be appointed by His Majesty to be chairman and deputy chairman respectively. [171]

(3) The term of office of the Commissioners shall be four years, and three of them shall retire each year on the first day of April in that year:

Provided that of the first twelve Commissioners appointed under this section, three shall be appointed to hold office until the first day of April, nineteen hundred and forty-seven, and shall then retire, three shall be appointed to hold office until the first day of April, nineteen hundred and forty-eight, and shall then retire, and three shall be appointed to hold office until the first day of April, nineteen hundred and forty-nine, and shall then retire. [172]

(4) A person who has held the office of Commissioner shall be eligible for re-appointment to that office. [173]

(5) Whenever a vacancy occurs among the Commissioners by death or resignation or by a Commissioner refusing to act, a person appointed to fill the vacancy shall hold office until the time when the person in whose place he was appointed would regularly have retired and shall then retire. [174]

The Public Works Loan Commissioners were previously appointed under s. 4 of the Public Works Loans Act, 1875 (12 Halsbury's Statutes 255), which is repealed by s. 5 (2) and Sched. II, *post*, to the extent specified in that Schedule, consequent upon the provision made by the present section. See Preliminary Note, *ante*.

**2. Grants for public works.**—(1) There may be issued by the National Debt Commissioners for the purpose of local loans by the Public Works Loan Commissioners any sum or sums not exceeding in the whole the sum of one hundred and fifty million pounds. [175]

(2) The sums so issued shall be issued during a period ending on the day on which a further Act granting money for the purposes of those loans comes into operation, and in accordance with the provisions of the National Debt and Local Loans Act, 1887. [176]

This section, except for the amount specified therein, is in identical terms with s. 1 of the Public Works Loans Act, 1944 (37 Halsbury's Statutes 385).

For the constitution of the National Debt Commissioners, see s. 14 of the National Debt Reduction Act, 1786 (16 Halsbury's Statutes 27).

For the National Debt and Local Loans Act, 1887, see 12 Halsbury's Statutes 282.

**3. Certain debts not to be reckoned as assets of Local Loans Fund.**—Whereas it is expedient that the principal of the several local loans specified in the tables contained in Part I and Part II of the First Schedule to this Act should, to the extent specified in the last column of those tables, not be reckoned as assets of the Local Loans Fund established under the National Debt and Local Loans Act, 1887:

Now, therefore, the principal of the said loans to the extent aforesaid shall be written off from the assets of the Local Loans Fund, and the provisions of section fifteen of the said Act shall, so far as applicable, apply thereto. [177]

This section is in identical terms with s. 2 of the Public Works Loans Act, 1944 (37 Halsbury's Statutes 386).

For the National Debt and Local Loans Act, 1887, see 12 Halsbury's Statutes 282. The Local Loans Fund was established by s. 7 thereof, see *ibid.* 283. For s. 15, providing for the writing off of losses, see *ibid.* 287.

**4. Remission of balance of principal and interest in respect of local loan.**—Whereas it is provided by section three of this Act that the principal of the local loan specified in the table contained in Part II of the First Schedule to this Act shall, to the extent of the sum specified in the last column of that table, be written off from the assets of the Local Loans Fund:

And whereas the said sum constitutes the balance remaining unpaid out of the total amount advanced, and is irrecoverable:

Now, therefore, the principal of the said loan shall, to the extent aforesaid, be extinguished and all arrears of interest thereon shall be remitted. [178]

This section, together with Sched. I, Pt. II, *post*, corresponds to s. 3 of the Public Works Loans Act, 1944 (37 Halsbury's Statutes 386).

The Local Loans Fund was established by s. 7 of the National Debt and Local Loans Act, 1887 (12 Halsbury's Statutes 283).

**5. Short title and repeal.**—(1) This Act may be cited as the Public Works Loans Act, 1946. [179]

(2) The enactment specified in the Second Schedule to this Act is hereby repealed to the extent specified in the third column of that Schedule. [180]



## SCHEDULES

## FIRST SCHEDULE

Sections 3 and 4

LOANS BY THE PUBLIC WORKS LOAN COMMISSIONERS UNDER THE AGRICULTURAL CREDITS ACT, 1923 (INCLUDING ADVANCES UNDER PARAGRAPH (4) OF SECTION TWENTY-TWO OF THE PUBLIC WORKS LOANS ACT, 1875)

## PART I

Name of borrower	Amount of loan	Amount to be written off
	£	£ s. d.
Mr. Arthur John Bailey .. .. .	1,578	151 2 1
Mr. Edward James Barker .. .. .	1,650	1,113 3 0
Mr. Tom Beswick .. .. .	5,150	821 5 2
Mr. Walter Boynton .. .. .	16,012	3,084 11 8
Mr. Lee Bussey .. .. .	6,450	1,547 0 3
Mr. Harry Carter .. .. .	4,350	1,121 8 0
Mr. Isaac Holliday Coates .. .. .	1,312	470 16 7
Mr. William John Edwards and Mrs. Mary Edwards .. .. .	2,895	1,700 16 11
Mr. John Henry Elliott .. .. .	1,200	38 0 5
Miss Jane Embleton and Miss Agnes Embleton .. .. .	13,500	959 11 6
Mr. Robert Fox .. .. .	5,445	497 9 6
Mr. Thomas Hardy .. .. .	5,285	4,714 1 7
Mr. Thomas Harrison and Mr. Thomas William Harrison .. .. .	4,200	4,105 9 9
Mr. Stanley William Hayward .. .. .	2,500	1,118 0 7
Mr. Adrian Frederick Stanley Howell .. .. .	5,500	5,434 11 1
Mr. Edward Knight .. .. .	785	427 19 4
Mr. John Morgan and Mrs. Harriett Anna Morgan .. .. .	3,000	2,954 4 1
Mr. Edward James Ellerton Posgate .. .. .	6,300	249 19 8
Mr. Ernest Saddington .. .. .	10,800	1,588 19 3
Mr. John Thomas Collen Salmon .. .. .	7,500	3,158 9 7
Mr. David Smith .. .. .	3,705	2,550 13 5
Mr. John Arkle Stobbs .. .. .	7,500	972 10 6
Mrs. Alberta Ward .. .. .	11,325	4,271 16 3
Mr. William Thirby Walker .. .. .	5,025	491 18 4
Mr. Walter Woolley .. .. .	7,830	2,461 8 8

[181]

## PART II

Name of borrower	Amount of loan	Amount to be written off
	£	£ s. d.
Mr. John Henry Thompson, Mrs. Annie Thompson and Mr. Arthur Thompson ..	4,800	4,758 4 10

[182]

For the Agricultural Credits Act, 1923, see 1 Halsbury's Statutes 122.

For the Public Works Loans Act, 1875, s. 22 (4), see 12 Halsbury's Statutes 262.

## SECOND SCHEDULE

## Section 5

## ENACTMENT REPEALED

Session and Chapter	Short Title	Extent of Repeal
38 & 39 Vict. c. 89.	The Public Works Loans Act, 1875.	In section four, the words "by Act of Parliament" and the words from "The Public Works Loan Commissioners shall hold office" to "would have held office." [183]

For the Public Works Loans Act, 1875, s. 4, see 12 Halsbury's Statutes 255.

## THE BORROWING (CONTROL AND GUARANTEES) ACT, 1946

(9 & 10 Geo. 6, c. 58)

## PRELIMINARY NOTE

This Act, which received the Royal Assent on July 12, 1946, forms part of the Government's programme for the economic planning of the country's resources. It empowers the Treasury, firstly, to control the borrowing of money and the raising of money by the issue of shares, and secondly, to guarantee loans to facilitate the reconstruction and development of industry.

With the Bill there was issued, as Command Paper 6726, a Memorandum explaining the background to the Bill together with a draft of the first order which it was proposed to make under the Bill on its becoming law. Para. 1 of this Memorandum states that it is the Government's policy to establish and maintain a proper balance between the economic resources of the community and the demands upon them, and that this involves giving priority to projects of capital development according to their relative importance in the national interest. The Memorandum further states that it is necessary for the Government continuously to guide the planning of the investment programme as a whole and to co-ordinate it with other Government plans for the use of the country's economic resources. In moving the Second Reading of the Bill in the House of Lords, Lord Pakenham stated the Government's view that control of borrowing was required during the transitional stage following the war because the demand for capital was in excess of the supply, and, as a permanent measure, to guard against inflation (141 H. of L. Official Report 291). To achieve these purposes the Act, in effect, makes permanent the war-time arrangements for the control of capital issues imposed by Regulation No. 6 of the Defence (Finance) Regulations, 1939.

S. 1 provides that the Treasury may make orders regulating (a) the borrowing of money in Great Britain where the total amount borrowed under a transaction and any other borrowings within the year by the same borrower exceeds £10,000, (b) the raising of money in Great Britain by the issue in Great Britain or abroad of any shares, (c) the issue of securities for any purpose either by companies incorporated in England or Scotland, or, where the securities are to be registered in England or Scotland, by companies incorporated elsewhere and by foreign governments, (d) the circulation in Great Britain of any offer for subscription, sale or exchange either of shares in a company incorporated abroad, or of any foreign Government securities. A proviso to the section states that para. (a), *supra*, shall not apply to the borrowing of money by any person in the ordinary course of his business from a banker. The powers of the Treasury under the section extend, *mutatis mutandis*, to unit trusts.



The Capital Issues Committee, which functioned during the war as the licensing authority for capital issues under Regulation 6 of the Defence (Finance) Regulations, 1939, will continue to perform the like functions in relation to s. 1 of the present Act. Speaking of the principles upon which the Committee will make their recommendations, Lord Pakenham said, in moving the Second Reading of the Bill in the House of Lords (141 H. of L. Official Report 290) :—

“ In the very broadest sense they will remain those behind Regulation 6 of the Defence (Finance) Regulations, a Regulation which will lapse when the new arrangements have been finally completed and come into operation. They are, first, to ensure that the order of priority of schemes for raising new capital accords with their relative importance in the national interest—that is of immense importance—and secondly, to secure proper timing of the impact upon the market of any new issues which have been approved in principle.”

A National Investment Council, a non-statutory body of which the Chancellor of the Exchequer is chairman, has been established for the purpose of advising the Government on the co-ordination of the work of the Public Works Loan Board, the Finance Corporation for Industry, the Industrial and Commercial Finance Corporation and the Capital Issues Committee, and, generally, on the regulation and, where necessary, stimulation, of investment in the national interest (see para. 6 of the Memorandum (Cmd. 6726)).

S. 2 of the Act empowers the Treasury to guarantee loans to an aggregate amount of £50,000,000 in any financial year if satisfied that it is expedient in the public interest to do so, for the purpose of facilitating reconstruction or development of an industry or part of an industry including any undertakings engaged in the provision of any description of supplies or services. A statement is to be laid before Parliament of any guarantee so given as soon as may be after it is given, and also a yearly statement of the total payments into and out of the Consolidated Fund in respect of such guarantees.

S. 3 provides for the laying before Parliament of orders made under the Act, and for their annulment by negative resolution of either House ; s. 4 is an interpretation section ; s. 5 provides for the payment of Treasury expenses incurred in administering the Act, and s. 6 empowers the Parliament of Northern Ireland to enact similar legislation. The Schedule provides for the enforcement of orders and penalties for infringement. [184]

*An Act to provide for the regulation of the borrowing and raising of money, the issue of securities, and the circulation of offers of securities for subscription, sale or exchange, to enable the Treasury to guarantee loans in certain circumstances, and for purposes connected with the matters aforesaid.* [185]

[12th July, 1946.]

**1. Treasury control of borrowing, etc.**—(1) The Treasury may make orders for regulating, subject to such exemptions as may be specified in the orders, all or any of the following transactions, that is to say—

(a) the borrowing of money in Great Britain where the aggregate of the amount of money borrowed under the transaction and of any other amounts so borrowed by the same person in the previous twelve months (including any period before the passing of this Act) exceeds ten thousand pounds ;

(b) the raising of money in Great Britain by the issue, whether in Great Britain or elsewhere, by any body corporate, of any shares in that body corporate ;

(c) the issue for any purposes—

(i) by any body corporate of any shares in or debentures or other securities of that body corporate, if either the body corporate is incorporated under the law of England or Scotland or the shares, debentures or other securities are or are to be registered in England or Scotland ; or

- (ii) by any Government, other than His Majesty's Government in the United Kingdom, of any securities of that Government which are or are to be registered in England or Scotland ;
- (d) the circulation in Great Britain of any offer for subscription, sale or exchange of—
- (i) any shares in or debentures or other securities of any body corporate not incorporated under the law of England or Scotland ; or
- (ii) any securities of any Government other than His Majesty's Government in the United Kingdom :

Provided that paragraph (a) of this subsection shall not apply to the borrowing of money by any person (other than a local authority) in the ordinary course of his business from a person carrying on a banking undertaking. [186]

(2) The provisions of this section shall apply in relation to units under a unit trust scheme as they apply in relation to shares in a body corporate, but as if—

- (a) any reference to the issue of shares in a body corporate by that body corporate were a reference to an issue of units for the purposes of the scheme ; and
- (b) any reference to shares in a body corporate incorporated, or not incorporated, under the law of England or Scotland were a reference to units issued under a scheme governed, or not governed, by the law of England or Scotland. [187]

(3) The provisions of the Schedule to this Act (which relate to enforcement and penalties) shall have effect in relation to orders made under this section but the rights of the persons concerned in any transaction shall not be affected by the fact that the transaction was in contravention of any such orders. [188]

*Effect of section.*—See Preliminary Note, *ante*.

*Treasury Orders.*—A draft of an Order which it was proposed to make under the provisions of this section was laid before Parliament by the Chancellor of the Exchequer contemporaneously with the introduction of the Bill (Cmd. 8726), but on May 21, 1947, while this volume was in the press stage, there was made the Control of Borrowing Order, 1947 (S. R. & O., 1947, No. 945), which, while following the general lines of the above-mentioned draft Order, made certain amendments thereto in order to implement assurances given to Parliament during the Debates on the Bill (see 437 H. of C. Official Report 2537-8).

At the same time there was issued an Order in Council (S. R. & O., 1947, No. 944) which revoked Regulation 6 of the Defence (Finance) Regulations, 1939, in its application to England and Scotland, except as regards the making therein of public offers for sale of securities of a body corporate incorporated under the law of either of those countries, and amended the remaining provisions of the Regulation. Contemporaneously, a third Order, the Capital Issues Exemptions Order, 1947 (S. R. & O., 1947, No. 946), exempted from the provisions of the amended Regulation 6 any public offer for sale made in England or Scotland of the securities of a body corporate incorporated under the law of either of those countries except where the securities offered are shares or stock and they or any other shares or stock have been issued by that body corporate without the specific consent of the Treasury during the two years immediately preceding the offer, *e.g.* under any of the current exemptions. In this provision "stock" does not include debenture stock. All three Orders came into force on June 18, 1947.

*Control of Borrowing Order.*—The Control of Borrowing Order, 1947, *supra*, which replaces the revoked parts of the said Regulation 6, requires, subject to certain exceptions, Treasury consent to :—

- (1) the borrowing of money in Great Britain in excess of £10,000 in any twelve calendar months. For this purpose postponements of the repayment of a security and arrangements to leave the purchase price of property (except the price of goods sold in the ordinary course of trading, or of an undertaking sold to a private company) charged on that property are included as borrowing ;
- (2) the raising of money in Great Britain by the issue of shares in a body corporate ;
- (3) the issue of securities by bodies corporate incorporated under the law of England or Scotland for the raising or borrowing of money outside Great Britain, for the capitalisation of profits or reserves, for conversion operations and for other specified purposes ;
- (4) the issue by a body corporate of partly paid shares if either the body corporate is incorporated under the law of England or Scotland or the shares are or are to be registered under the law of England or Scotland ;
- (5) certain issues by overseas bodies corporate ;

- (6) certain issues by overseas Governments ;
- (7) the circulation in Great Britain of offers for subscription, sale or exchange, to the public or to existing holders, of securities of overseas Governments or bodies corporate or of units under a unit trust scheme not governed by the law of England or Scotland ; and
- (8) in specified circumstances the issue of units under a unit trust scheme.

Nevertheless, general exemptions under the Order are allowed for :—

- (a) transactions consisting in the borrowing of money or the issue of securities (except securities issued to capitalise profits or reserves) or units in a unit trust scheme up to an aggregate of £50,000 in any twelve calendar months provided that that aggregate is calculated as set out in Article 8 of the Order ;
- (b) borrowings and issues of securities by Building Societies and by Industrial and Provident Societies ;
- (c) issues of shares under certain defined profit sharing schemes ; and
- (d) transactions to which consent has been given by the Ministry of Finance, Northern Ireland.

Enquiries as to the precise effect of the Orders in particular circumstances should be addressed to The Secretary, Capital Issues Committee, Treasury Chambers, Whitehall, London, S.W.1.

*Definitions.*—For definition of “ borrowing of money,” see s. 4 (2), *post* ; and for definitions of “ issue,” “ local authority,” “ registered,” “ security,” “ share,” “ unit trust scheme ” and “ unit,” see s. 4 (1), *post*.

**2. Power of the Treasury to guarantee loans.**—(1) The Treasury may, if satisfied that it is expedient in the public interest so to do for the purpose of facilitating the reconstruction or development of an industry or part of an industry in Great Britain, guarantee any loan :

Provided that the aggregate capital amount of the loans in respect of which guarantees are issued in any one financial year under this section (excluding any part of that amount which is guaranteed neither as to principal nor as to interest) shall not exceed fifty million pounds. [189]

(2) Any guarantee given under this section may be given in such form and manner and on such terms and subject to such conditions as the Treasury think fit. [190]

(3) Any moneys required for fulfilling a guarantee given under this section shall be charged on and issued out of the Consolidated Fund or the growing produce thereof, and any moneys paid in or towards repayment of any sum issued out of the Consolidated Fund under this section shall be paid into the Exchequer. [191]

(4) The Treasury shall lay before both Houses of Parliament—

- (a) a statement of any guarantee given under this section as soon as may be after it is given ; and
- (b) within one month after the end of any financial year in which any guarantees given under this section are in force, an account of the total sums, if any, which during that year have been either issued out of the Consolidated Fund under this section or paid in or towards repayment of any money so issued. [192]

(5) In this section, references to the guaranteeing of a loan shall be construed as references to guaranteeing, whether wholly or in part and whether solely or jointly with other guarantors, the payment either of the interest, or of both the interest and the principal, of the loan, and the expression “ guaranteed ” shall be construed accordingly, and references to an industry shall be construed as including references to the undertakings for the time being engaged in the provision of any description of supplies or services. [193]

*Effect of section.*—See Preliminary Note, *ante*.

**3. Provisions as to orders.**—(1) Any order made under this Act shall be laid before Parliament as soon as may be after it is made, and if either House of Parliament within the period of forty days beginning with the day on which any such order is laid before it, resolves that the order be annulled, the order shall cease to have effect, but without prejudice to anything previously done thereunder or to the making of a new order. [194]

(2) In reckoning any such period of forty days, no account shall be taken of any time during which Parliament is dissolved or prorogued, or during which both Houses are adjourned for more than four days. [195]

(3) Notwithstanding anything in subsection (4) of section one of the Rules Publication Act, 1893, an order made under this Act shall be deemed not to be, or to contain, a statutory rule to which that section applies. [196]

(4) An order made under this Act may be varied or revoked by a subsequent order. [197]

*Effect of section.*—See Preliminary Note, *ante*.

*Rules Publication Act, 1893.*—18 Halsbury's Statutes 1016. This Act is repealed by s. 12 of the Statutory Instruments Act, 1946 (39 Halsbury's Statutes 789), which will come into operation on such date as may be appointed by Order in Council. Sub-s. (3), *supra*, was inserted to avoid the necessity of publishing notice of orders to be made under this Act in the *London Gazette* as required by the Rules Publication Act, 1893, s. 1 (*ibid.*).

**4. Interpretation.**—(1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them, that is to say :—

“ issue ” includes reissue ;

“ local authority ” means any authority being within the meaning of the Local Loans Act, 1875, or the Local Authorities Loans (Scotland) Act, 1891, an authority having power to levy a rate ;

“ registered ”, in relation to any security, includes inscribed, “ registered in England or Scotland ” means, in relation to securities, registered in a register in England or Scotland, and “ a register ”, in relation to securities, includes any book in which securities are registered ;

“ security ” includes shares, bonds, notes, debentures, debenture stock and units under a unit trust scheme ;

“ share ” includes stock and any perpetual debenture or perpetual debenture stock ;

“ unit trust scheme ” means any arrangements made for the purpose, or having the effect, of providing facilities for the participation by persons, as beneficiaries under a trust, in profits or income arising from the acquisition, holding, management or disposal of securities or any other property whatsoever ;

“ unit ” means, in relation to a unit trust scheme, any right or interest (described whether as a unit or otherwise) which may be acquired under the scheme, being a right or interest created or issued for the purpose of raising money for the purposes of the scheme or a right or interest created or issued in substitution (whether directly or indirectly) for any right or interest so created or issued. [198]

(2) Any reference in this Act to the borrowing of money—

(a) includes a reference to the making of any arrangement by which a sum which would otherwise be payable at any date is payable at a later date, and includes in particular the making of any arrangement by which the whole or any part of the price of any property is allowed to remain unpaid either for a fixed period or indefinitely, but

(b) does not include a reference to the acceptance by a person carrying on a banking undertaking of moneys to be placed to the credit of a current or deposit account. [199]

(3) A person shall be deemed for the purposes of this Act to borrow or raise money in Great Britain if the money is made available in Great Britain, or, in any such case as is mentioned in subsection (2) of this section, if the money would, but for the arrangement in question, have been payable in Great Britain, and, without prejudice to the preceding provisions of this

subsection, a person shall also be deemed for the purposes of this Act to borrow money in Great Britain if the money is borrowed on the security of property in Great Britain. [200]

(4) An arrangement to provide any guarantee, or to mortgage or charge any property, to secure the repayment of any sum borrowed before the arrangement is made, being a sum which is already due when the arrangement is made or which is payable not later than six months, or such longer or shorter period as may be prescribed by order of the Treasury, after the arrangement is made, shall be deemed for the purposes of the two last preceding subsections to be an arrangement by which that sum is payable at a date later than it would otherwise have been payable. [201]

(5) A sum which, at the time of, or by virtue of, the making of any arrangement, is payable on demand or on the expiration of a fixed period after demand shall be deemed for the purposes of the three last preceding subsections to be payable at the time of the making of the arrangement, or, as the case may be, on the expiration of the fixed period after the making of the arrangement, notwithstanding that no demand has been made. [202]

*Local Loans Act, 1875.*—12 Halsbury's Statutes 242.

*Effect of sub-ss. (2), (4) and (5).*—The effect of sub-s. (2) is to extend the term "borrowing of money" to include any arrangement for postponing repayment of money and in particular any arrangement whereby part of the purchase price of property remains unpaid. Sub-s. (4) is designed to bring into the ambit of sub-s. (2) cases where fresh security is given but no specific arrangement for postponing repayment is made, if the money borrowed is due at the time when the fresh security is given or payable within six months (or such other period as the Treasury may prescribe); and sub-s. (5) extends the scope of sub-s. (4) by providing in effect that money which is not payable until or after demand is made, shall be deemed payable on the giving of the fresh security.

**5. Expenses.**—Any expenses incurred by the Treasury in the administration of this Act shall be paid out of moneys provided by Parliament. [203]

**6. Northern Ireland.**—(1) The provisions of this Act, other than the provisions of this section, shall not extend to Northern Ireland. [204]

(2) It is hereby declared that the Parliament of Northern Ireland has power to make laws for purposes similar to the purposes of any of the provisions of this Act which do not extend to Northern Ireland. [205]

**7. Short title.**—This Act may be cited as the Borrowing (Control and Guarantees) Act, 1946. [206]

## SCHEDULE

### Section 1

#### PROVISIONS AS TO ENFORCEMENT AND PENALTIES

1. Any person who contravenes any provision of any order made under this Act shall be liable—

(a) on summary conviction to imprisonment for not more than three months or to a fine not exceeding five hundred pounds or to both such imprisonment and such fine; or

(b) on conviction on indictment to imprisonment for not more than two years or to a fine not exceeding whichever is the highest of the following amounts—

(i) five hundred pounds; or

(ii) the amount of any money borrowed or raised by the transaction in question; or

(iii) the nominal or market value, whichever is the greater, of any securities to the issue, sale or other disposal of which (whether actual or projected) the transaction in question relates,

or to both such imprisonment and such fine.

2.—(1) The Treasury may give to any person directions requiring him, within such time and in such manner as may be specified in the directions, to furnish to them, or to any person designated in the directions as a person authorised to require it, any information in his possession or control which the Treasury or the person so authorised, as the case may be, may require for the purpose of securing compliance with, or detecting evasion of, any order made under this Act :

Provided that if a person required to give any information under this paragraph objects to the giving thereof on the ground that it might tend to incriminate him, he shall not be bound to give that information.

Nothing in this paragraph shall be taken to require any person who has acted as counsel or solicitor for any person to disclose any privileged communication made to him in that capacity.

(2) The Treasury may give to any person directions requiring him, within such time and in such manner as may be specified in the directions, to produce such books, accounts or other documents (hereinafter referred to as " documents ") in his possession or control as may be required for the purpose of securing compliance with, or detecting evasion of, any order made under this Act by the Treasury or by any person designated in the directions as a person authorised to require them and any documents produced by a person in compliance with any such requirements may be given in evidence against him notwithstanding that they may tend to incriminate him.

Nothing in this paragraph shall be taken to require any person who has acted as counsel or solicitor for any person to disclose any privileged communication made to him in that capacity.

(3) If a justice of the peace is satisfied by information on oath given by an officer of the Treasury or with the authority of the Treasury that there is reasonable ground for suspecting that there are at any premises any documents which a person ought to have produced under the last preceding sub-paragraph but has failed or refused to produce, he may grant a search warrant authorising any constable, together with any other persons named in the warrant and any other constables, to enter the premises specified in the information (using such force as is reasonably necessary for the purpose) at any time within one month from the date of the warrant, and to search the premises and take possession of any documents appearing to be such documents as aforesaid or take in relation thereto any other steps which may appear necessary for preserving them and preventing interference therewith.

In this sub-paragraph the expression " a justice of the peace," in Scotland, includes the sheriff.

(4) Any person who—

- (a) fails or refuses to comply with any requirement to furnish information or produce documents imposed on him by or under this paragraph ; or
- (b) with intent to evade the provisions of this paragraph or of any order made under this Act destroys, mutilates, defaces, secretes or removes any documents ; or
- (c) obstructs any person exercising any powers conferred on him by or under this paragraph,

shall be liable, on summary conviction, to imprisonment for not more than three months or to a fine not exceeding one hundred pounds or to both such imprisonment and such fine.

3.—(1) No proceedings for an offence under this Act shall be instituted in England except by or with the consent of the Director of Public Prosecutions.

(2) Any proceedings which may be taken against any person under this Act may be taken at any time not later than twelve months from the date of the commission of the alleged offence or within three months from the date on which evidence sufficient in the opinion of the Treasury to justify the proceedings comes to the knowledge of the Treasury, or, where the person in question was outside Great Britain at that date, within twelve months from the date on which he first lands in Great Britain thereafter whichever of the said periods last expires.

For the purposes of this sub-paragraph, a certificate of the Treasury as to the date on which such evidence as aforesaid came to the knowledge of the Treasury shall be conclusive evidence thereof.

This sub-paragraph shall, in its application to Scotland, have effect as if for the references to evidence sufficient to justify a prosecution there were substituted

references to evidence sufficient to justify a report to the Lord Advocate with a view to consideration of the question of prosecution.

(3) Proceedings against any person in respect of an offence under this Act may be taken before the appropriate court in Great Britain having jurisdiction in the place where that person is for the time being.

(4) Where an offence under this Act has been committed by a body corporate (other than a local authority), every person who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of the body corporate, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence, unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances. [207]

## FINANCE ACT, 1946

(9 & 10 Geo. 6, c. 64)

### PRELIMINARY NOTE

This Act contains two sections and one Schedule which affect local authorities.

S. 14 and Sched. II provide for a reduction of excise duty on local authorities' watering vehicles not electrically propelled where the gross unladen weight does not exceed 16 cwt., and s. 61 provides that sums received by a joint authority from its constituent authorities to meet deficiencies in revenue are not taxable as trading receipts of the authority. [208].

*An Act to grant certain duties, to alter other duties, and to amend the law relating to the Public Revenue and the National Debt, and to make further provision in connection with Finance.* [209] [1st August, 1946.]

**14. Excise duty on mechanically propelled vehicles.**—(1) Section thirteen of the Finance Act, 1920 (which imposes excise duties on mechanically propelled vehicles), shall have effect as respects vehicles of an unladen weight exceeding twelve cwt. and not exceeding one ton as if the respective rates of duty specified in the Second Schedule to this Act were substituted—

\* \* \* \* \*

(b) for the rate of duty specified in Part III of the Second Schedule to the Finance (No. 2) Act, 1945, in respect of local authorities' watering vehicles not electrically propelled (but not including the additional duty payable in respect thereof if used for drawing a trailer). [210]

(2) This section shall come into operation on the first day of January, nineteen hundred and forty-seven. [211]

*Finance Act, 1920, s. 13.*—16 Halsbury's Statutes 852.

*Finance (No. 2) Act, 1945, Sched. II, Part III.*—38 Halsbury's Statutes 423.

*Effect of section.*—The Finance (No. 2) Act, 1945, s. 4 (4) (38 Halsbury's Statutes 413), provided for new rates of duty in respect of local authorities' watering vehicles, the rates being specified in Part III of the Second Schedule to the Act (*ibid.* 423). Different rates were prescribed according to whether the vehicles were, or were not, electrically propelled. In the case of vehicles not electrically propelled the scale for unladen weights in excess of one ton rose by steps of a quarter of a ton, but below that rate there were only two steps, namely, (a) not exceeding 12 cwt. and (b) exceeding 12 cwt. and not exceeding one ton. The 12 cwt. to one ton step is now divided into two equal steps of 12 cwt. to 16 cwt. and 16 cwt. to one ton.

*Additional duty in respect of trailer.*—The Finance (No. 2) Act, 1945, Sched. II, Part III (38 Halsbury's Statutes 423), provides for the payment of an additional duty of £6 if a local authority's watering vehicle, whether or not electrically propelled, is used for drawing a trailer.

\* \* \* \* \*



**61. Receipts by joint authorities to meet deficits.**—(1) Any sums received, whether before or after the passing of this Act, by a joint authority to which this section applies from their constituent authorities, being sums which, by the terms of any enactment or of any order confirmed by or made under any enactment, the joint authority are authorised to require from their constituent authorities to meet or towards meeting the amount or estimated amount by which the net revenue of the joint authority for any period falls short or may fall short of their expenditure for that period, shall not be, and shall be deemed never to have been, trading receipts for any of the purposes of the Income Tax Acts. [212]

(2) Nothing in this section shall render a joint authority liable to pay a greater amount of tax (including excess profits tax) than they would have paid apart from the provisions of this section. [213]

(3) This section applies to any joint authority constituted under any enactment which is authorised to require from, and only from, those of its constituent authorities which are local authorities any such sums as are mentioned in subsection (1) of this section. [214]

(4) In this section,—

(a) the expression “constituent authority”, in relation to a joint authority, means any body corporate which is a member of, or a representative of which is a member of, the joint authority or which appoints a member of the joint authority; and

(b) the expression “local authority” means the council of a county, county borough, metropolitan borough, county district or rural parish or the Common Council of the City of London or, in relation to Scotland, the council of a county, town or district, and includes any joint authority constituted under any enactment the constituent authorities of which are all local authorities. [215]

*Effect of section.*—This section has been inserted in order to reverse the recent House of Lords decision in *Pontypridd and Rhondda Joint Water Board v. Ostime*, [1946] A. C. 477; [1946] 1 All E. R. 668 (see p. 97, *post*), that sums received by a joint board from its constituent authorities under precepts issued to those authorities to cover a deficiency or estimated deficiency in net revenue were trading receipts of the joint board and fell to be taken into account in computing the profits and gains of the board's trade under the Income Tax Act, 1918, Sched. D, Case 1 (9 Halsbury's Statutes 559). The section provides, with retrospective effect, that such sums paid to a joint board are not to be classed as trading receipts of the board for income tax purposes.

*Joint boards.*—As to joint boards, see ss. 6–10 of the Public Health Act, 1936 (29 Halsbury's Statutes 326–329).

## SECOND SCHEDULE

### Section 14

#### RATES OF EXCISE DUTY ON CERTAIN MECHANICALLY PROPELLED GOODS VEHICLES CHARGEABLE UNDER THE SECOND SCHEDULE TO THE FINANCE ACT, 1920

##### *Rates chargeable on Local Authorities' Watering Vehicles not Electrically Propelled*

Weight unladen of vehicle		Rate	
1	2	3	4
Exceeding	Not exceeding	Initial	Additional for each $\frac{1}{4}$ ton or part of a $\frac{1}{4}$ ton in excess of the weight in column 1
12 cwt.	16 cwt.	£12 10s.	—
16 cwt.	1 ton	£15 0s.	—

[216]



## THE PUBLIC WORKS LOANS (NO. 2) ACT, 1946

(9 &amp; 10 Geo. 6, c. 75)

## PRELIMINARY NOTE

S. 1 of this Act makes provision similar to that contained in previous Public Works Loans Acts for the issuing to the Public Works Loan Commissioners of sums (in this case up to £250 millions) for the purpose of local loans until the passing of the next Act for that purpose (*cf.* s. 2 of the Public Works Loans Act, 1946, *ante*).

S. 2 deals with the power of the Loan Commissioners to enter into commitments to make future advances, where as a result, the aggregate of the advances that in fact have been made during the current issue period and of commitments for future advances (extending, perhaps, over some years) will exceed the sums placed at their disposal by Parliament for the current issue period. Doubt had been expressed, prior to the passing of this Act, whether the Loan Commissioners were authorised to enter into such commitments. As a result of this, local authorities, who since the passing of the Local Authorities Loans Act, 1945 (38 Halsbury's Statutes 308), are generally prohibited from borrowing otherwise than from the Loan Commissioners, were in certain cases unable to obtain firm commitments for meeting their future borrowing requirements. S. 2 therefore provides that the Loan Commissioners shall have power, and shall be deemed always to have had power, to enter into undertakings to grant local loans under which the loan or any instalment falls or may fall to be advanced after the expiration of the current issue period. It is, however, provided that the aggregate of the commitments outstanding during the present issue period (including those in respect of undertakings entered into before this period), together with advances, may not exceed £500 millions. S. 2 (3) provides, consequentially, that for the purposes of s. 9 of the Public Works Loans Act, 1875 (12 Halsbury's Statutes 258), which requires the Loan Commissioners in considering the propriety of granting a loan to have regard, *inter alia*, to the amount of money placed at their disposal by Parliament, this sum of £500 millions (or any sums fixed by the corresponding provision of any further Act) shall be treated as the amount so placed.

S. 3 repeals the provision made by the Housing Act, 1936, s. 92 (7) (29 Halsbury's Statutes 634), fixing a minimum rate of interest for loans made by the Loan Commissioners in pursuance of that section or to borrowers other than local authorities for the provision of labourers' dwellings under the Public Works Loans Act, 1875 (see s. 9 thereof and Sched. I thereto; 12 Halsbury's Statutes 258, 273), or any Act amending that Act. A similar repeal is made in the corresponding Act relating to Scotland. These repeals have the effect of bringing the provisions in regard to interest rates on such loans into line with the provisions in regard to interest rates on other loans made by the Loan Commissioners. The interest rates on all such loans are now, as a result, to be such as may be prescribed from time to time by the Treasury, without any fixed minimum rates. [217]

## ARRANGEMENT OF SECTIONS

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*An Act to grant money for the purpose of certain local loans out of the Local Loans Fund; to make provision as to the Public Works Loan Commissioners' entering into undertakings to grant loans; and to repeal the provisions of section ninety-two of the Housing Act, 1936, and of section seventy-three of the Housing (Scotland) Act, 1925, as to the minimum rate of interest therein mentioned.* [218]

[6th November, 1946.]

**1. Grant for public works.**—(1) There may be issued by the National Debt Commissioners for the purpose of local loans by the Public Works Loan Commissioners (in this Act referred to as the “Loan Commissioners”) any sum or sums not exceeding in the whole the sum of two hundred and fifty million pounds. [219]

(2) The sums so issued shall be issued during a period ending on the date on which a further Act granting money for the purposes of those loans comes into operation, and in accordance with the provisions of the National Debt and Local Loans Act, 1887. [220]

This section, except for the amount specified therein, is in identical terms with s. 2 of the Public Works Loans Act, 1946, *ante*. See notes to that section.

**2. Provision as to the Public Works Loan Commissioners' entering into undertakings to grant loans.**—(1) The Loan Commissioners shall have power, subject to the provisions of this section, and shall be deemed always to have had power, to enter into undertakings to grant local loans, including undertakings under which the loan or any instalment thereof will or may fall to be advanced after the expiration of the issue period current when the undertakings are entered into. [221]

(2) The aggregate of—

(a) the commitments of the Loan Commissioners outstanding at any time during the issue period beginning with the passing of this Act in respect of undertakings entered into by them (whether during or before the beginning of that period), and

(b) the advances in respect of local loans made by the Loan Commissioners during that period up to that time,

shall not exceed five hundred million pounds. [222]

(3) For the purposes of section nine of the Public Works Loans Act, 1875 (which requires the Loan Commissioners, in determining whether a loan out of public money is justified, to have regard to the amount of money placed at their disposal by Parliament), the said sum of five hundred million pounds shall be treated during the issue period beginning with the passing of this Act as the amount of money so placed, and any sum fixed as respects any future issue period by a corresponding provision of any further Act shall be so treated during that issue period. [223]

(4) In this Act the expression “issue period” means a period beginning with the coming into operation of this Act and ending on the day on which a further Act granting money for the purposes of local loans comes into operation, and in any such further Act that expression shall have a corresponding meaning unless the contrary intention appears. [224]

As to the effect of this section, see Preliminary Note, *ante*.

The Loan Commissioners are the Public Works Loan Commissioners, see s. 1, *ante*. As to the constitution thereof, see the Public Works Loans Act, 1875, s. 4 (12 Halsbury's Statutes 255), as amended by s. 5 (2) of, and Sched. II to, the Public Works Loans Act, 1946, *ante*. As to their appointment, see s. 1 of the latter Act.

For the Public Works Loans Act, 1875, s. 9, see 12 Halsbury's Statutes 258.

**3. Repeal of provision as to minimum rate of interest on certain loans.**—In subsection (7) of section ninety-two of the Housing Act, 1936 (which provides that any loan made by the Loan Commissioners in pursuance of that section, or to borrowers other than local authorities for the provision of labourers' dwellings under the Public Works Loans Act, 1875, or any Act amending that Act, shall bear interest at such rate not less than three pounds two shillings and sixpence per cent. per annum as is therein mentioned), and in subsection (6) of section seventy-three of the Housing (Scotland) Act,

1925 (which makes corresponding provision as to Scotland), the words "not less than three pounds two shillings and sixpence per cent. per annum" are hereby repealed. [225]

For the Housing Act, 1936, s. 92 (7), see 29 Halsbury's Statutes 635.

For the provision of labourers' dwellings under the Public Works Loans Act, 1875, see s. 9 of, and Sched. I to, that Act (12 Halsbury's Statutes 258, 273).

The words in s. 1 of the Public Works Loans Act, 1897, as extended by s. 4 of the Public Works Loans Act, 1917, and as explained by s. 4 of the Public Works Loans Act, 1918 (12 Halsbury's Statutes 296, 304, 305), fixing minimum interest rates for loans made out of the Local Loans Fund, were repealed by s. 5 (1) of the Public Works Loans Act, 1935 (28 Halsbury's Statutes 169).

**4. Short title.**—This Act may be cited as the Public Works Loans (No. 2) Act, 1946. [226]

## ORDERS, CIRCULARS AND MEMORANDA

### ORDER IN COUNCIL AMENDING REGULATION 68D OF THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O., 1946, No. 161*

*February 19, 1946*

\* \* \* \* \*

**2.** In paragraph (1) of Regulation sixty-eight D of the Defence (General) Regulations, 1939 (which provides for the making of loans by the local authorities of certain holiday resorts) the words "for any of" shall be omitted. [227]

\* \* \* \* \*

### THE FINANCIAL STATEMENTS (DISTRICT AUDIT) AMENDMENT REGULATIONS, 1946

*S. R. & O., 1946, No. 239*

*February 9, 1946*

The Minister of Health in exercise of the powers conferred on him by section 222 of the Local Government Act, 1933, and of all other powers enabling him in that behalf, hereby makes the following regulations :—

**1.** These regulations may be cited as the Financial Statements (District Audit) Amendment Regulations, 1946, and shall be read as one with the Financial Statements (District Audit) Regulations, 1938 (in these regulations called "the principal regulations"), and these regulations and the principal regulations may be cited together as the Financial Statements (District Audit) Regulations, 1938 and 1946. [228]

**2.** The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [229]

**3.** The principal regulations shall be amended in manner following :—

(a) The following paragraph shall be added to article 2 :—

"(o) A joint education board constituted by the Minister of Education under Part I of the First Schedule to the Education Act, 1944, and a joint education committee established by the Minister of Education under Part II of the said First Schedule, where the accounts of the joint education committee are subject to audit by a district auditor";

- (b) There shall be added to the orders repealed by article 8 (2) and the Third Schedule :—

“ The Order of the Local Government Board, dated May 3, 1909, prescribing the Form of Financial Statement to be submitted to the District Auditor by Joint Education Committees and Joint Bodies established under the Education Acts, 1870 to 1907 ”,

and the reference to the said Order in Part I of the Second Schedule shall be deleted. [230]

\* \* \* \* \*

## TREASURY MINUTE FIXING RATES OF INTEREST ON LOCAL LOANS

*S. R. & O., 1946, No. 970*

*June 12, 1946*

The rates set out in Part I of the scale to this Minute are superseded by those in *S. R. & O., 1946, No. 971, post*, as from June 1, 1946, and those set out in Parts II to VII are superseded by those in *S. R. & O., 1946, No. 1942, post*, as from November 26, 1946.

My Lords read Section 1 of the Public Works Loans Act, 1897 (60 & 61 Vict. c. 51), which empowers the Treasury from time to time to fix the rates of interest at which loans may be made out of the Local Loans Fund on the security of Local rates, and provides that the Treasury, in fixing the rates, shall have regard to the duration of the loans, and also that the rates shall be such as, in the opinion of the Treasury, are sufficient to enable the loans to be made without loss to the Fund.

They also read Section 4 of the Public Works Loans Act, 1918 (8 & 9 Geo. 5, c. 27), by which it is declared that the power of the Treasury under Section 1 of the Public Works Loans Act, 1897, as amended by Section 4 of the Public Works Loans Act, 1917 (7 & 8 Geo. 5, c. 32), to fix rates of interest on loans made out of the Local Loans Fund otherwise than on the security of local rates includes (subject always to the provisions of the said Sections) a power to fix rates of interest differing from the rates fixed for loans made out of that fund on the security of local rates, and a power to fix different rates of interest in respect of different loans and that in fixing the rate of interest the Treasury may take into account the nature and value of the security for the loan.

They further read Section 92 of the Housing Act, 1936 (26 Geo. 5 and 1 Edw. 8, c. 51) and Section 73 of the Housing (Scotland) Act, 1925 (15 & 16 Geo. 5, c. 15), as amended by Sections 25 and 28 of the Housing (Scotland) Act, 1935 (25 & 26 Geo. 5, c. 41), which provide that loans may be granted to companies, societies, associations and persons as defined in those Sections in connection with the provision of houses for the working classes.

The Local Authorities Loans Act, 1945 (8 & 9 Geo. 6, c. 18), prohibits, with certain exceptions, all borrowing by a local authority otherwise than from the Public Works Loan Commissioners, and also abolishes the statutory provisions which made it necessary to charge on certain loans for housing, small holdings and allotments, the minimum rate of interest allowed for the time being for loans out of the Local Loans Fund whatever the period.

The present minimum rate of interest is a long-term rate, and notice has already been given to Parliament of My Lords' intention to introduce a scale of rates for loans to local authorities varying with the period for which a loan is made.

The Chancellor of the Exchequer recommends, and My Lords approve, the following rates to come into operation as from the 1st day of August, 1945, and to apply to loans advanced out of the Local Loans Fund on or after that date. [231]

## I

*Loans to local authorities as defined in Section 10 of the Local Authorities Loans Act, 1945.*

*Loans to territorial associations*

Loans for not more than 5 years	.. .. .	2 per cent.
Loans for more than 5 but not more than 10 years	..	2½ "
Loans for more than 10 but not more than 15 years	..	2¾ "
Loans for more than 15 but not more than 30 years	..	3 "
Loans for more than 30 years	.. .. .	3½ "

## II

*Loans to housing associations as defined by the Housing Act, 1936, and the Housing (Scotland) Act, 1935*

For any period up to 50 years	.. .. .	3½ per cent.
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## III

*Loans to companies and private persons, limiting their profits to the rate for the time being prescribed*

For any period up to 40 years	.. .. .	3½ per cent.
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## IV

*Loans to companies and private persons not limiting their profits as aforesaid*

For any period up to 40 years	.. .. .	3¾ per cent.
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## V

*Loans under the Harbours and Passing Tolls, etc., Act, 1861, with collateral security*

For any period up to 50 years	.. .. .	3½ per cent.
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## VI

*Loans under the Harbours and Passing Tolls, etc., Act, 1861, without collateral security*

For any period up to 50 years	.. .. .	3¾ per cent.
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## VII

*All other loans*

For any period	.. .. .	3¾ per cent.
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# TREASURY MINUTE FIXING RATES OF INTEREST ON LOCAL LOANS

*S. R. & O., 1946, No. 971*

*May 30, 1946*

This Minute supersedes the rates set out in Part I of the scale to *S. R. & O., 1946, No. 970, ante*, as from June 1, 1946.

My Lords read Section 1 of the Public Works Loan Act, 1897 (60 & 61 Vict. c. 51), which empowers the Treasury from time to time to fix the rates of interest at which loans may be made out of the Local Loans Fund on the security of Local rates, and provides that the Treasury, in fixing the rates, shall have regard to the duration of the loans, and also that the rates shall be such as, in the opinion of the Treasury, are sufficient to enable the loans to be made without loss to the Fund.

They also read the Local Authorities Loan Act, 1945 (8 & 9 Geo. 6, c. 18), which prohibits, with certain exceptions, all borrowing by a local authority otherwise than from the Public Works Loan Commissioners, and also abolishes the statutory provisions which made it necessary to charge on certain loans for housing, small holdings and allotments, the minimum rate of interest allowed for the time being for loans out of the Local Loans Fund whatever the period.

The present rates of interest on loans to Local Authorities as defined in Section 10 of the last mentioned Act were fixed by the Treasury Minute of the 12th June, 1945, which introduced a scale of rates varying with the period of the loan. Monetary conditions now justify a reduction in those rates.

Accordingly, the Chancellor of the Exchequer recommends, and My Lords approve, the following scale to come into operation on the First day of June, 1946, and to apply to all loans advanced to local authorities, as defined in Section 10 of the Local Authorities Loans Act, 1945, from the Local Loan Fund on or after that date :—

Loans for not more than 5 years .. .. .	1½ per cent.
Loans for more than 5 years but not more than 15 years .. .. .	2     "
Loans for more than 15 years .. .. .	2½     "

[233]

# TREASURY MINUTE FIXING RATES OF INTEREST ON LOCAL LOANS (OTHER THAN LOANS TO LOCAL AUTHORITIES)

*S. R. & O., 1946, No. 1942*

*November 19, 1946*

This Minute supersedes the rates set out in Parts II to VII of the scale to *S. R. & O., 1946, No. 970, ante*, as from November 26, 1946.

My Lords read Section 4 of the Public Works Loans Act, 1918 (8 & 9 Geo. 5, c. 27), by which it is declared that the power of the Treasury under Section 1 of the Public Works Loans Act, 1897 (60 & 61 Vict. c. 51), as amended by Section 4 of the Public Works Loans Act, 1917 (7 & 8 Geo. 5, c. 32), to fix rates of interest on loans made out of the Local Loans Fund otherwise than on the security of local rates includes (subject always to the provisions of the said Sections) a power to fix rates of interest differing from the rates fixed for loans made out of that Fund on the security of local rates,

and a power to fix different rates of interest in respect of different loans and that in fixing the rate of interest the Treasury may take into account the nature and value of the security for the loan.

They also read Section 92 of the Housing Act, 1936 (26 Geo. 5 & 1 Edw. 8, c. 51) and Section 73 of the Housing (Scotland) Act, 1925 (15 & 16 Geo. 5, c. 15), as amended by Sections 25 and 28 of the Housing (Scotland) Act, 1935 (25 & 26 Geo. 5, c. 41), which provide that loans may be granted to companies, societies, associations and persons as defined in those Sections in connection with the provision of houses for the working classes.

They further read Section 3 of the Public Works Loans (No. 2) Act, 1946 (9 & 10 Geo. 6, c. 75), which repeals the statutory minimum rate of interest of three pounds two shillings and sixpence per cent. per annum on loans advanced to borrowers other than local authorities, under the Housing Acts, from the Local Loans Fund.

The present rates of interest on loans advanced otherwise than on the security of local rates were fixed by Treasury Minute of 12th June, 1945. Monetary conditions now justify a reduction in those rates.

Accordingly the Chancellor of the Exchequer recommends, and My Lords approve, the following rates to come into operation as from the 26th day of November, 1946, and to apply to loans advanced otherwise than on the security of local rates from the Local Loans Fund, on or after that date : [234]

# I

## *Loans to housing associations as defined by the Housing Act, 1936, and the Housing (Scotland) Act, 1935*

For any period up to 50 years	.. .. .	2½ per cent.
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# II

## *Loans under the Housing Acts to companies and private persons limiting their profits to the rate for the time being prescribed*

For any period up to 40 years	.. .. .	2½ per cent.
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# III

## *Loans under the Housing Acts to companies and private persons not limiting their profits as aforesaid*

For any period up to 40 years	.. .. .	2¾ per cent.
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# IV

## *Loans under the Harbours and Passing Tolls, etc., Act, 1861, with collateral security*

For any period up to 50 years	.. .. .	2½ per cent.
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# V

## *Loans under the Harbours and Passing Tolls, etc., Act, 1861, without collateral security*

For any period up to 50 years	.. .. .	2¾ per cent.
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# VI

## *All other Loans*

For any period	.. .. .	2¾ per cent.
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## CASES

*Income tax—Trade receipt—Sums received by water board under precepts issued to constituent authorities—Sums provided out of general rate—Whether trade receipt—Income Tax Act, 1918 (c. 40), Sched. D, Case I.*

Payments in the nature of a subsidy from public funds made to an undertaker to assist in carrying on the undertaker's trade or business are trading receipts, *i.e.* are to be brought into account in arriving at the balance of profits or gains under the Income Tax Act, 1918, Sched. D, Case I; but if the undertaker is a rating authority and the subsidy is the proceeds of rates imposed by it or comes from a fund belonging to the authority, the identity of the source with the recipient prevents any question of profits arising.

The appellant board was a joint water board which was authorised by a local Act to supply water direct to consumers in the districts of its two constituent authorities and to sell water in bulk to water undertakings in two more districts. In the event of an estimated deficit in its net revenue for any year the board was authorised to issue precepts to its two constituent authorities calling for lump sums to be contributed by them, which they might pay either from their respective district funds or by levying rates. If either authority made default in payment the board was empowered, by precept, to raise the necessary amount by levying a rate in place of the defaulting authority. In the exercise of its statutory powers the appellant board made an estimate which showed an estimated deficiency of £9,930 in the net revenue of the board for the period ending March 31, 1939, and issued precepts on its constituent authorities for the respective sums apportioned to them out of that amount. The sums were duly paid by the constituent authorities and an appropriation account of the board for that year showed the amount of £9,930 as received under these precepts. The question at issue was whether the sums thus received under precept to meet an estimated deficiency in the result of what were admittedly trading activities fell to be taken into account in computing the profits and gains of the board's trade under the Income Tax Act, 1918, Sched. D, Case I:—

*Held:* (i) the appellant board was not entitled to the benefit of the principle of the exemption of public rating authorities from taxation in respect of the surplus of rates.

*Re Glasgow Corp'n. Waterworks* (1875), 1 Tax Cas. 28, distinguished.

(ii) the sums in question were received as sums which went to make up the profits or gains of the board's trade.

(iii) the amounts of the precepts were not in the same category as a local rate raised by a public body for the assistance of an undertaking carried on by that body, which was entitled to have such assistance; the assistance in this case was given for the purposes of being used in the business carried on by the appellant board so as to enable it to meet its trading obligations.

(iv) the sums received under precept were, therefore, trading receipts and fell to be taken into account in computing the profits and gains of the board's trade under Sched. D, Case I.

*Decision of the Court of Appeal* ([1944] 2 All E. R. 237), *affirmed*.—PONTYPRIDD AND RHONDDA JOINT WATER BOARD *v.* OSTIME, [1946] A. C. 477; [1946] 1 All E. R. 668; 115 L. J. K. B. 343; 174 L. T. 413; 110 J. P. 281; 62 T. L. R. 295; 44 L. G. R. 217, H. L.; *affirming sub nom.* OSTIME *v.* PONTYPRIDD AND RHONDDA JOINT WATER BOARD, [1944] 2 All E. R. 237; 171 L. T. 211; 108 J. P. 253; 60 T. L. R. 552; 42 L. G. R. 298, C. A. [236]

This decision has been in effect reversed by the Finance Act, 1946, s. 61 (see p. 89, *ante*).



# FIRE PROTECTION

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## ORDERS, CIRCULARS AND MEMORANDA

### THE NATIONAL FIRE SERVICE (GENERAL) REGULATIONS, 1946

*S. R. & O., 1946, No. 571*

*April 18, 1946*

In pursuance of the powers conferred on me by the Fire Services (Emergency Provisions) Act, 1941, as amended by the Defence (National Fire Service) Regulations, 1941, and the Emergency Laws (Transitional Provisions) Act, 1946, I hereby make the following Regulations :—

1. At the end of paragraph (5) of Regulation 1 of the National Fire Service (General) Regulations, 1944 (hereafter in these Regulations referred to as “the said Regulations”), there shall be added the words “or by the Emergency Laws (Transitional Provisions) Act, 1946”. [237]

2.—(1) In the proviso to paragraph (2) of Regulation 7 of the said Regulations for the words from “a member of a Fire Force” to “Regulation 9 (2) of these Regulations” there shall be substituted the words “a member of a Fire Force who has completed his period of probation in his rank shall not be reduced from that rank under this paragraph by the Chief Regional Fire Officer without the concurrence of the Secretary of State or by the Fire Force Commander without the concurrence of the Chief Regional Fire Officer except with his own consent or on conviction of a criminal offence, and a fireman who has not completed his period of probation in his rank shall not be reduced without the same concurrence to a rank below that which he held immediately before he was promoted except with his own consent or on conviction of a criminal offence”.

(2) At the end of the definition of the words “period of probation” in the said paragraph (2) of Regulation 7 there shall be added the words “and, in the case of a whole-time fireman, during which he served as a part-time fireman”.

(3) For the definition of the words “period of probation” in paragraph (4) of the said Regulation 7 there shall be substituted the following definition :—

“In this paragraph ‘period of probation’ means—

(a) in relation to any fireman who is appointed a member of the National Fire Service with a rank above that of Fireman or Firewoman, the period of probation in the rank to which he is appointed as defined for the purposes of paragraph (2) of this Regulation ;

(b) in relation to any fireman who is appointed or re-appointed a member of the National Fire Service after the thirty-first day of December, 1945, with the rank of Fireman or Firewoman,

the first two years of service of one or more of the following descriptions :—

- (i) service as a fireman in the National Fire Service,
- (ii) service as a member of a fire brigade being either the London Fire Brigade or a brigade maintained under the Fire Brigades Act, 1938, by a local authority,
- (iii) service as a member of the Auxiliary Fire Service or of any Women's Auxiliary Fire Service, membership of which did not involve membership of the National Fire Service,
- (iv) service with the Auxiliary Fire Service in the service of the Crown by virtue of the National Service Act, 1941 ;

but in calculating such service in relation to a whole-time fireman's period of probation there shall be disregarded any period of service which was not whole-time paid service :

Provided that promotion other than promotion which is expressed to be temporary only shall terminate a period of probation as a part-time fireman and as a whole-time fireman if on promotion he remains a whole-time fireman ;

- (c) in relation to any other fireman, the first six months of his service as such, together with such further period or periods (not exceeding in all a further twelve months) as may at any time before the end of his period of probation be added thereto by a direction (which may be revoked by a subsequent direction) of any person who has, for the time being, power under this paragraph to discharge him ". [238]

3. Paragraphs (2) and (4) of Regulation 9 and Regulations 10 and 11 of the said Regulations are hereby revoked. [239]

4. In paragraph 4 of Part III of the Second Schedule to the said Regulations the words "or Regulation 10" shall be omitted. [240]

5. For paragraph 1 of the Third Schedule to the said Regulations there shall be substituted the following paragraph :—

" 1.—(1) The rate of pay for whole-time firemen or firewomen who are above the rank of Divisional Officer or Group Officer or who hold ranks not mentioned in paragraphs (2) or (3) of Regulation 6 of these Regulations shall be such as the Secretary of State may from time to time determine.

(2) The rate of pay for whole-time firemen or firewomen holding a rank set out in the subjoined table shall be the amount set opposite to that rank in the second column of the table :—

Table

	<i>Per annum</i>		
	£	s.	d.
Divisional Officer .. .. .	650	0	0
Column Officer .. .. .	550	0	0
Senior Company Officer .. .. .	465	0	0
Company Officer .. .. .	425	0	0
Group Officer .. .. .	300	0	0
Assistant Group Officer .. .. .	265	0	0

(3) The scale of pay for a whole-time Section Leader shall be as follows :—

	<i>Weekly</i>	
	s.	d.
During the first year of service after promotion .. ..	128	0
During the second year of service after promotion .. ..	131	0

	Weekly
	s. d.
During the third year of service after promotion .. ..	134 0
During the fourth year of service after promotion .. ..	137 0
During the fifth year of service after promotion .. ..	140 0
During the sixth and subsequent years of service after promotion .. ..	143 0

(4) The scale of pay for a whole-time Leading Fireman shall be as follows :—

	Weekly
	s. d.
During the first year of service after promotion .. ..	108 0
During the second year of service after promotion .. ..	111 0
During the third year of service after promotion .. ..	114 0
During the fourth year of service after promotion .. ..	117 0
During the fifth year of service after promotion .. ..	120 0
During the sixth and subsequent years of service after promotion .. ..	123 0

Provided that a man who, immediately before promotion, was entitled to a rate of pay in the scale then applicable to him not less in amount than the lowest rate in the scale in this sub-paragraph shall be entitled, during the first year of service after promotion, to the rate of pay in the latter scale next above the amount of the rate to which he was entitled immediately before promotion and, during each subsequent year of service, to an increment in the latter scale.

(5) The rate of pay for a whole-time Senior Leading Firewoman shall be 95s. 0d. weekly and for a whole-time Leading Firewoman 85s. 0d. weekly.

(6) The scale of pay for a whole-time member of the National Fire Service holding the rank of Fireman who has attained the age of 20 years shall be according to the following scale but in applying that scale any service before attaining that age shall be disregarded :—

	Weekly
	s. d.
During any part of the first and second years of service which elapses before attainment of the age of 23 years ..	88 0
During any part of the first and second years of service which elapses after attainment of the age of 23 years ..	90 0
During the third year of service .. ..	93 0
During the fourth year of service .. ..	96 0
During the fifth year of service .. ..	99 0
During the sixth year of service .. ..	102 0
During the seventh year of service .. ..	105 0
During the eighth year of service .. ..	108 0
During the ninth year of service .. ..	111 0
During the tenth year of service .. ..	114 0
During the eleventh and subsequent years of service ..	117 0

(7) Subject to the provisions of sub-paragraph (8) hereof, the scale of pay for a whole-time member of the National Fire Service holding the rank of Firewoman shall be as follows :—

	Weekly
	s. d.
During the first year of service .. ..	62 6
During the second year of service .. ..	65 0
During the third year of service .. ..	67 6

				Weekly	
				s.	d.
During the fourth year of service	..	..	..	70	0
During the fifth year of service	..	..	..	72	6
During the sixth year of service	..	..	..	75	0
During the seventh year of service	..	..	..	77	6
During the eighth and subsequent years of service	..	..	..	80	0

(8) The rates of pay for whole-time members of the National Fire Service holding the rank of Fireman or Firewoman who have not attained the age of 20 years shall be as set out in the subjoined table :—

Table

		Firemen		Firewomen	
		Weekly		Weekly	
		s.	d.	s.	d.
Before attaining the age of 17 years	.. ..	45	0	40	0
During the eighteenth year of age	.. ..	50	0	45	0
During the nineteenth year of age	.. ..	60	0	50	0
During the twentieth year of age	.. ..	70	0	55	0

(9) In this paragraph "service" means—

(a) service of one or more of the following descriptions :—

(i) service as a member of a fire brigade being either the London Fire Brigade or a brigade maintained under the Fire Brigades Act, 1938, by a local authority ;

(ii) service as a member of the Auxiliary Fire Service or any Women's Auxiliary Fire Service, membership of which did not involve membership of the Auxiliary Fire Service ;

(iii) service as a fireman in the National Fire Service ;

(iv) service with the Auxiliary Fire Service in the service of the Crown by virtue of the National Service Act, 1941 ;

but in calculating such service there shall be disregarded any period of service which was not whole-time paid service after the thirty-first day of August, 1939 ; and

(b) in the case of any person who ceased to perform service within the meaning of paragraph (a) of this sub-paragraph and within four weeks of so ceasing began a period of war service within the meaning of the Reinstatement in Civil Employment Act, 1944, and within five weeks of the end of such war service or any longer period which the Secretary of State may in any particular case allow, applies to join or rejoin the National Fire Service, also any period of such war service after the thirty-first day of August, 1939.

(10) Part-time firemen may be paid such sums, whether by way of retaining fees, compensation for loss of time or otherwise, and in such circumstances as the Secretary of State may from time to time determine."

[241]

6. The proviso to paragraph 4 of the Third Schedule to the said Regulations shall be omitted. [242]

7. For sub-paragraph (2) of paragraph 8 of the Third Schedule to the said Regulations (which modifies the foregoing provisions of the Schedule in relation to the pay of leading firemen who immediately before their transfer to the National Fire Service were members of a fire brigade or a police force) there shall be substituted the following sub-paragraph :—

"(2) The rate of pay for leading firemen shall be such as the Secretary of State may from time to time determine." [243]

8. Subsection (2) of section 38 of the Interpretation Act, 1889, shall apply as if these Regulations were an Act of Parliament and as if any Regulations revoked by these Regulations were Acts of Parliament repealed by an Act of Parliament. [244]

9.—(1) These Regulations may be cited as the National Fire Service (General) Regulations, 1946.

(2) These Regulations shall come into operation on the thirtieth day of April, 1946. [245].

Note as to S. R. & O., 1946, No. 571.—*The amendment made in Regulation 1 is consequential upon the passing of the Emergency Laws (Transitional Provisions) Act, 1946. The purpose of the amendment made in Regulation 2 is to provide for an extended period of probation for firemen appointed after December 31, 1945. Regulation 3 revokes Regulation 9 (2) and (4) of the existing Regulations which make disobedience to orders and absence from duty criminal offences and prevent a fireman from resigning, and Regulations 10 and 11 of the existing Regulations which relate to persons who were called up for Civil Defence under the National Service Act, 1941, and served with the National Fire Service. Regulation 4 is consequential on Regulation 3. The purpose of Regulation 5 is to provide increased pay for the National Fire Service. The purpose of the amendment made in Regulation 6 is to remove words which have become inapplicable to the National Fire Service. The amendment made in Regulation 7 is consequential upon the increased pay provided for in Regulation 5.*

## THE NATIONAL FIRE SERVICE (PRESERVATION OF PENSIONS) REGULATIONS, 1946

S. R. & O., 1946, No. 572

April 18, 1946

In pursuance of the powers conferred on me by the Fire Services (Emergency Provisions) Act, 1941, as amended by section four of the Emergency Laws (Transitional Provisions) Act, 1946, I hereby make the following Regulations:—

1. Any remuneration which by virtue of paragraph 2 of the Third Schedule to the National Fire Service (General) Regulations, 1944 (which paragraph relates to the payment of extra remuneration in respect of trade or similar qualifications), is received by any person as a whole-time member of the National Fire Service shall be left out of account in computing the pay received by him as such for the purposes of each of Parts II to VII of the National Fire Service (Preservation of Pensions) Regulations, 1943 (which allow National Fire Service pay to be taken into account for the purpose of computing the pensions of members of that Service to whom the said Parts apply). [246]

2.—(1) These Regulations may be cited as the National Fire Service (Preservation of Pensions) Regulations, 1946.

(2) These Regulations shall come into operation on the thirtieth day of April, 1946. [247]

## THE NATIONAL FIRE SERVICE (GENERAL) (NO. 2) REGULATIONS, 1946

S. R. & O., 1946, No. 1151

July 19, 1946

In pursuance of the powers conferred on me by the Fire Services (Emergency Provisions) Act, 1941, as amended by the Defence (National Fire

Service) Regulations, 1941, and the Emergency Laws (Transitional Provisions) Act, 1946, I hereby make the following Regulations :—

1. In the proviso to paragraph (2) of Regulation 7 of the National Fire Service (General) Regulations, 1944 (which relates to reduction in rank), there shall be inserted after the word “ concurrence ” where it occurs for the second time the words “ in the case of England and Wales ”, and after the words “ Chief Regional Fire Officer ” where they occur for the second time there shall be inserted the words “ and, in the case of Scotland, of the Secretary of State ”. [248]

2.—(1) These Regulations may be cited as the National Fire Service (General) (No. 2) Regulations, 1946.

(2) These Regulations shall come into operation on the thirty-first day of July, 1946. [249]

### EXPLANATORY NOTE

*(This Note is not part of the Regulations, but is intended to indicate their general purport.)*

*The purpose of this amendment is to make provision in the case of Scotland where there is no Officer with the designation of Chief Regional Fire Officer.*

## THE NATIONAL FIRE SERVICE (GENERAL) (NO. 3) REGULATIONS, 1946

S. R. & O., 1946, No. 1905

November 14, 1946

In pursuance of the powers conferred on me by the Fire Services (Emergency Provisions) Act, 1941, as having effect by virtue of the Emergency Laws (Transitional Provisions) Act, 1946, I hereby make the following Regulations :—

1. For sub-paragraph (2) of paragraph 1 of the Third Schedule to the National Fire Service (General) Regulations, 1944 (which relates to the pay of whole-time firemen and firewomen), there shall be substituted the following sub-paragraph :—

“(2) The rate of pay for whole-time firemen or firewomen holding a rank set out in the subjoined table shall be the amount set opposite to that rank in the second column of the table :—

Table

	Per annum	
	£	s. d.
Divisional Officer .. .. .	700	0 0
Column Officer .. .. .	600	0 0
Senior Company Officer .. .. .	500	0 0
Company Officer .. .. .	450	0 0
Group Officer .. .. .	325	0 0
Assistant Group Officer .. .. .	265	0 0” [250]

2. These Regulations may be cited as the National Fire Service (General) (No. 3) Regulations, 1946. [251]

# FOOD AND DRUGS

ORDERS, CIRCULARS AND MEMORANDA :—	PAGE	PRESERVES (AMENDMENT No. 8) Order, 1946	PAGE
Food (Revocation of Transport Provisions) Order, 1946	104	CASES :—	
Preserves Order amended	104	Evans v. Rogers, [1946] 2 All E. R.	116
Preserves Order amended	105	64 — — — — —	116
Preserves Order amended	108	Follett v. Luke, [1947] 1 All E. R. 35	116

## ORDERS, CIRCULARS AND MEMORANDA

### THE FOOD (REVOCATION OF TRANSPORT PROVISIONS) ORDER, 1946

*S. R. & O., 1946, No. 249*

*February 19, 1946*

In exercise of the powers conferred upon him by Regulation 55 of the Defence (General) Regulations, 1939, as having effect by virtue of the Supplies and Services (Transitional Powers) Act, 1945, and of all other powers him enabling, the Minister of Food hereby makes the following Order :—

1. The Orders specified in the first column of the Schedule to this Order are hereby revoked to the extent specified in relation thereto in the second column of the said Schedule, but without prejudice to any proceedings in respect of any contravention thereof. [252]

2. This Order shall come into force on the third day of March, 1946, and may be cited as the Food (Revocation of Transport Provisions) Order, 1946. [253]

### THE SCHEDULE

First Column	Second Column
<p>The Preserves Order, 1944, as amended. (S. R. &amp; O. 1944 (No. 841) II, p. 1033, and 1945 Nos. 66, 196, and 1449.)</p>	<p>Article 12 and the Fourth Schedule. [254]</p>

### ORDER AMENDING THE PRESERVES ORDER, 1944

*S. R. & O., 1946, No. 1222*

*July 24, 1946*

This Order is revoked, as from September 8, 1946, by S. R. & O., 1946, No. 1485, *post*.

In exercise of the powers conferred upon him by Regulations 55 and 55AB of the Defence (General) Regulations, 1939, as having effect by virtue of the Supplies and Services (Transitional Powers) Act, 1945, and of all other powers him enabling, the Minister of Food hereby makes the following Order :—

1. The Preserves Order, 1944, as amended, shall be further amended by



substituting in Part I of the First Schedule thereto for the words "special standard marmalade" the words "special standard marmalade other than canned grapefruit marmalade" and by inserting at the end of the Table set out in the said Part the following additional entry :—

Description of Jam	Maximum first-hand price	Maximum whole-sale price	Maximum retail price
	Rate per doz. 2-lb. cans		Rate per 2-lb. can
	s. d.	s. d.	s. d.
Canned grapefruit marmalade (special standard) .. .. .	19 0	20 5	2 0

[255]

2. This Order shall come into force on the 1st day of August, 1946. [256]

#### EXPLANATORY NOTE

*(This note is not part of the Order, but is intended to indicate its general purport.)*

*The purpose of this amending Order is to prescribe prices for canned grapefruit marmalade (special standard).*

### ORDER AMENDING THE PRESERVES ORDER, 1944

S. R. & O., 1946, No. 1485

September 4, 1946

In exercise of the powers conferred upon him by Regulations 55 and 55AB of the Defence (General) Regulations, 1939, as having effect by virtue of the Supplies and Services (Transitional Powers) Act, 1945, and of all other powers him enabling, the Minister of Food hereby makes the following Order :—

1. The Preserves Order, 1944, as amended, shall be further amended as follows :—

(a) by inserting immediately after paragraph (4) of Article 4 thereof the following paragraph—

“(5) The foregoing provisions of this Article shall not apply to Blackberry (or Bramble) Jelly, Blackberry (or Bramble) Jam, Blackberry and Apple Jam, or Bilberry Jam”;

(b) by substituting for Part I of the First Schedule thereto (which specifies the maximum prices of jam manufactured in the United Kingdom) the Schedule to this Order. [257]

2. The Order, dated November 15, 1945, amending the Preserves Order, 1944, and the Order, dated July 24, 1946, amending the Preserves Order, 1944 (which Orders amended the said Part I of the said First Schedule), are hereby revoked, but without prejudice to any proceedings in respect of any contravention of the Preserves Order, 1944, as amended. [258]

3. This Order shall come into force on the 8th day of September, 1946.

[259]

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VI	..	Raspberry and Redcurrant	5	6	9	11	18	9	59	8	79	6	5	10	10	7	20	4	64	7	86	1	6½	1	0½	2	0	6	5½
		Rhubarb and Raspberry																											
		Redcurrant Jelly																											
		Apple and Raspberry																											
		Gooseberry																											
		Apple and Loganberry																											
		Plum																											
VII	..	Marmalade	5	3	9	5	17	9	56	3	75	0	5	8	10	2	19	4	61	2	81	6	6½	1	0	1	11	6	2½
VIII	..	Apple and Damson																											
		Rhubarb																											
		Apple Jelly																											
		Quince Jelly																											
		Apple and Plum	5	3	9	5	17	9	56	3	75	0	5	7	10	1	19	3	60	10	81	1	6½	1	0	1	10½	6	1
		Any other jam (excepting																											
		Blackberry (or Bramble)																											
		Jelly, Blackberry (or																											
		Bramble) Jam, Blackberry																											
		and Apple Jam and Bilberry																											
		Jam)																											
		*B. Special standard marna-																											
		lade of the following varieties:—																											
IX	..	Grapefruit Marmalade						19	0							20	5									2	0		
X	..	Marmalade other than grape-	5	6	9	11	18	9	59	8	79	6	5	10	10	7	20	4	64	7	86	1	6½	1	0½	2	0	6	5½
		fruit marmalade																											

1. Loose Jam. The retail prices specified above shall not apply to the sale by retail of loose jam. The maximum price for such jam shall be—

(a) when sold in quantities of 8 ounces or less a price at the rate of one penny per ounce; and

(b) when sold in quantities of over 8 ounces a price at the rate per lb. calculated by reference to the retail price specified above for jam in a container containing 7 lb.

2. Jam Packed in Multiples of 7 lb. The maximum price of the sale of jam in a container containing any multiple of 7 lb. shall be a price at a rate per lb. calculated by reference to the price applicable on such sale to jam in a container containing 7 lb.

\*3. "Full fruit standard", "fresh fruit standard" and "special standard" have the same meanings respectively as in the Food Standards (Preserves) Order, as amended.

### EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

This Order amends the Preserves Order, 1944, by prescribing a new scale of maximum prices for jam and marmalade manufactured in the United Kingdom.

Blackberry (or bramble) jelly, blackberry (or bramble) jam, blackberry and apple jam, and bilberry jam are freed from price control. The previous amending Orders, No. 1449 of 1945 and No. 1222 of 1946, which are superseded by this Order, are specifically revoked.

[200]

## ORDER AMENDING THE PRESERVES ORDER, 1944

*S. R. & O., 1946, No. 1694**October 18, 1946*

In exercise of the powers conferred upon him by Regulations 55 and 55AB of the Defence (General) Regulations, 1939, as having effect by virtue of the Supplies and Services (Transitional Powers) Act, 1945, and of all other powers him enabling, the Minister of Food hereby makes the following Order :—

- 1. The Preserves Order, 1944, as amended, shall be further amended as follows :—

(a) By substituting for paragraphs (2) and (3) of Article 11 thereof the following paragraphs :—

“ (2) This Article applies to—

(a) jam manufactured in the United Kingdom

(b) fruit curd and mincemeat

(c) heather honey

(d) any specified brand of honey

(e) any preserves authorised by virtue of a licence granted under this Order to be sold at a price exceeding the maximum price prescribed by this Order, and

(f) any preserves permitted by virtue of paragraph (4) or paragraph (5) of Article 4 of this Order to be sold free of price control.

(3) The said statement—

(i) in the case of jam (other than marmalade) manufactured in the United Kingdom, shall contain the number of the relevant licence (if any) granted for the purposes of Article 2 of this Order immediately preceded by the letter “L,” and shall specify whether the said jam is fresh fruit standard or full fruit standard ;

(ii) in the case of marmalade manufactured in the United Kingdom, shall contain the number of the relevant licence (if any) granted for the purposes of Article 2 of this Order immediately preceded by the letter “L,” and shall specify whether the said marmalade is fresh fruit standard, full fruit standard or special standard ;

(iii) in the case of fruit curd or mincemeat, shall contain the number of the relevant licence (if any) granted for the purposes of Article 2 of this Order immediately preceded by the letter “L” ;

(iv) in the case of heather honey, shall contain the number of the relevant licence (if any) granted for the purposes of Article 3 of this Order immediately preceded by the letters “LH,” and shall contain the words “heather honey” ;

(v) in the case of any specified brand of honey, shall contain the number of the relevant licence (if any) granted for the purpose of Article 3 of this Order immediately preceded by the letters “LH,” and shall contain the words—

“ By virtue of a certificate issued by the Minister of Food to the packer named hereon, this honey may be sold at a price not exceeding (a) ”

(such statement to be completed by inserting at (a) the maximum price applicable under this Order to the honey together with the name and address of the packer to whom the certificate in respect of such honey has been issued);

(vi) in the case of any preserves authorised by virtue of a licence granted under this Order to be sold at a price exceeding the maximum price prescribed by this Order, shall contain (in addition to anything contained therein by virtue of any other sub-paragraph of this paragraph) the words "maximum retail price" followed by such price in figures not less than one-quarter of an inch in height, after which shall be added the words "prescribed by Licence No." immediately followed by the number of the relevant licence; and

(vii) in the case of any jam, fruit curd or mincemeat to which paragraph (4) of Article 4 of this Order applies, shall contain (in addition to anything contained therein by virtue of any other sub-paragraph of this paragraph) a statement to the effect that the said jam, mincemeat or fruit curd is permitted to be sold by retail by the manufacturer free of price control;

(b) by substituting in paragraph (6) of Article 11 thereof for the words "paragraphs (3) (iii) or (3) (iv) of this Article" the words "paragraphs (3) (iv) or (3) (v) of this Article";

(c) by substituting for Part I of the First Schedule thereto the First Schedule to this Order;

(d) by substituting for Part II of the First Schedule thereto the Second Schedule to this Order. [261]

2.—(1) Paragraphs (a) and (b) of Article 1 hereof shall come into force—

(i) with regard to any sale by a manufacturer of preserves, on the 1st day of January, 1947;

(ii) with regard to any sale by wholesale, on the 1st day of April, 1947; and

(iii) with regard to any sale by retail, on the 1st day of July, 1947.

(2) Except as provided by paragraph (1) of this Article, this Order shall come into force on the 24th day of October, 1946. [262]



VI	..	Raspberry and Redcurrant Rhubarb and Raspberry Redcurrant Jelly Apple and Raspberry Gooseberry. Apple and Loganberry Plum .. Marmalade .. Apple and Damson Rhubarb Apple Jelly Quince Jelly Apple and Plum Any other jam (excepting Blackberry (or Bramble) Jelly, Blackberry (or Bramble) Jam, Blackberry and Apple Jam and Bilberry Jam) .. *B. Special standard marmalade of the following varieties— Grapefruit Marmalade Marmalade other than grapefruit marmalade	5 6 9 11 18 9 56 3 5 3 9 5 17 9 56 3 5 3 9 5 17 9 56 3 5 3 9 5 17 9 56 3	79 6 5 10 10 7 20 4 64 7 75 0 5 8 10 2 19 4 61 2 75 0 5 7 10 1 19 3 60 10	86 1 81 6 81 1	6½ 1 0½ 2 0 6 5½ 6½ 1 0 1 11 6 2½ 6½ 1 0 1 10½ 6 1	
VII	..						
VIII	..						
IX	..		5 6 9 11 18 9 59 8 19 0	79 6 5 10 10 7 20 4 64 7 20 5	86 1 —	6½ 1 0½ 2 0 6 5½ 2 0	
X	..						

[263]

1. Loose Jam. The retail prices specified above shall not apply to the sale by retail of loose jam. The maximum price for such jam shall be—

(a) when sold in quantities of 8 ounces or less a price at the rate of one penny per ounce; and  
(b) when sold in quantities of over 8 ounces a price at the rate per lb. calculated by reference to the retail price specified above for jam in a container containing 7 lb.

2. Jam Packed in Multiples of 7 lb. The maximum price of the sale of jam in a container containing any multiple of 7 lb. shall be a price at a rate per lb. calculated by reference to the price applicable on such sale to jam in a container containing 7 lb.

\*3. "Full fruit standard", "fresh fruit standard" and "special standard" have the same meanings respectively as in the Food Standards (Preserves) Order, 1944, as amended.



**THE SECOND SCHEDULE**  
(To be substituted for Part II of the First Schedule to the Preserves Order, 1944)

**PART II**  
**MAXIMUM PRICES OF FRUIT CURD AND MINCEMEAT**

	Maximum First-hand Price			Maximum Wholesale Price			Maximum Retail Price		
	Per dozen containers of—			Per dozen containers of—			Per container of—		
	No. 1	No. 2	When sold loose or in containers containing 2 lb. net or more : Rate per cwt.	No. 1	No. 2	When sold loose or in containers containing 2 lb. net or more : Rate per cwt.	No. 1	No. 2	When sold loose or in containers containing 2 lb. net or more : Rate per cwt.
	Size	Size		Size	Size		Size	Size	
Mince-meat	s. 5 10	d. 8	s. 86 6	s. 11 7	s. 22 2	s. 93 9	s. 1 2	s. 2 2½	s. 110 0
Fruit Curd	5 6	9 11	78 3	10 9	20 4	86 3	1 1	2 0½	102 6

[2064]

## EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

The purpose of this amending Order is—

- (a) to extend the provisions of that part of the Preserves Order, 1944, which deals with labelling of containers, to all fruit curd and mince-meat and to certain varieties of jam which were recently freed from price control (by S. R. & O., 1946, No. 1485).
- (b) to provide that in the case of home-produced jams manufactured under licence the label shall bear the manufacturer's licence number preceded by the letter "L";
- (c) to provide that in the case of honey packed under licence the label shall bear the packer's licence number preceded by the letters "LH";
- (d) to prescribe a new Schedule of maximum prices of jam manufactured in the United Kingdom (The change effected by the new Schedule relates only to the wholesale prices of jams in Groups II and V when sold in 7-lb. containers.);
- (e) to prescribe a new Schedule of maximum prices of fruit curd and mincemeat. (The change effected by the new Schedule is to increase the prices throughout the scale.)

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THE PRESERVES (AMENDMENT NO. 8) ORDER, 1946

S. R. & O., 1946, No. 2217

December 31, 1946

In exercise of the powers conferred upon him by Regulation 55 and 55AB of the Defence (General) Regulations, 1939, as having effect by virtue of the Supplies and Services (Transitional Powers) Act, 1945, and of all other powers him enabling, the Minister of Food hereby makes the following Order:—

1. The Preserves Order, 1944, as amended, shall be further amended by substituting for Part I of the First Schedule thereto the Schedule to this Order. [265]

2. This Order shall come into force on the 5th day of January, 1947, and may be cited as the Preserves (Amendment No. 8) Order, 1946. [266]

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## CASES

*Food and Drugs—Milk—Standard agreement with Milk Marketing Board—Surplus to requirements—Delivery taken at farm collecting point—Sample taken later at diversion point—Whether in accordance with Act—Food and Drugs Act, 1938 (c. 56), ss. 24 (1), 68 (4).*

The respondent entered into a standard agreement with the Milk Marketing Board to sell all his milk to the Board. The milk was, and had been for many years past, under the direction of the Board, supplied to one G., who was a bulk purchaser of milk from the Board and also a haulage contractor conveying milk on behalf of the Board. Under a diversion order from the Board milk surplus to the requirements of G. was to be re-directed by him to a specified creamery. On the occasion in question some churns of the respondent's milk were collected by G. at the respondent's farm, the contents treated by G. as surplus milk and conveyed by a circuitous route to the specified creamery. The milk was sampled at this creamery and it was found that a quantity of water had been added. The respondent was charged, under the Food and Drugs Act, 1938, s. 24 (1), with unlawfully selling for human consumption to the Board milk to which an addition of water had been made. The justices dismissed the information. The question for the determination of the court was whether the sample was taken in accordance with the Act, s. 68 (4) of which provides that samples may be taken at any dairy, or at any time while the milk is in transit, or at the place of delivery to the purchaser, consignee or consumer. It was agreed that the sample was not taken at the respondent's dairy :—

*Held* : the place of delivery for the purpose of s. 68 (4), and under the contract, was the place where the delivery to the purchaser took place under the direction of the Board, in this case the farm collecting point where G. took delivery ; G. having taken delivery, it could not be said that the milk was any longer in transit ; and as the sample was not taken at the place of delivery, it was not taken in accordance with s. 68 (4) ; accordingly, the justices were right in the conclusion to which they came in dismissing the information.—*EVANS v. ROGERS*, [1946] K. B. 512 ; [1946] 2 All E. R. 64 ; 115 L. J. K. B. 461 ; 175 L. T. 90 ; 110 J. P. 252 ; 62 T. L. R. 417 ; 90 Sol. Jo. 273 ; 44 L. G. R. 206, D. C. [268]

*Food and Drugs—Watered whisky—Defence—Warranty—Excise certificate—Spirits Act, 1880 (c. 24), ss. 105 (5), 108 (2), Sched. IV—Food and Drugs Act, 1938 (c. 56), s. 84 (1) (a).*

The appellant was charged under the Food and Drugs Act, 1938, s. 3, with selling whisky containing 14 per cent. excess water. The whisky was sold from a bottle which had not been opened previously and had been kept in locked premises between the time of its delivery by the dealers to the appellant and that of its sale. As required by the Spirits Act, 1880, the whisky, when delivered by the dealers, was accompanied by a certificate which purported to state its strength, namely, that it was " 30 degrees under proof."

*Held* : the certificate was a written warranty on which, under s. 84 (1) of the Food and Drugs Act, 1938, the appellant could rely as a defence to the charge.—*FOLLETT v. LUKE*, [1947] K. B. 289 ; [1947] 1 All E. R. 35 ; 176 L. T. 140 ; 111 J. P. 64 ; 63 T. L. R. 67 ; 91 Sol. Jo. 132 ; 45 L. G. R. 58, D. C. [269]

## GAS

ORDERS, CIRCULARS AND MEMORANDA :—	PAGE	CASES :—	PAGE
Gas Fund (Contribution) Order, 1946 — — — —	117	Newcastle-under-Lyme Corpn. v. Wolstanton, Ltd., [1947] 1 All E. R. 218 — — — —	118
Gas and Electricity Companies (Relaxation of Obligations) (Revocation) Order, 1946 — — — —	117		

## ORDERS, CIRCULARS AND MEMORANDA

## THE GAS FUND (CONTRIBUTION) ORDER, 1946 . .

S. R. &amp; O., 1946, No. 14

January 2, 1946

The Minister of Fuel and Power in pursuance of the powers conferred upon him by Section 7 of the Gas Regulation Act, 1920, as amended by the Gas Undertakings Act, 1934, hereby prescribes as follows :—

**1. Rate of contribution for 1946.**—The rate of contribution to the Gas Fund for the year 1946 shall be :—

- (a) ten pence for each five thousand therms in the form of gas sold during the year 1945 (excluding gas sold to other undertakers in bulk for distribution and gas supplied separately for industrial purposes only); and
- (b) five pence for each five thousand therms in the form of gas supplied separately for industrial purposes only during the year 1945. [270]

**2. Contribution payable to Minister of Fuel and Power.**—Such contribution shall be paid on or before the 1st April, 1946, to the Minister of Fuel and Power at Heyhouses Lane, Lytham St. Annes, Lancashire, by all Gas Undertakers with respect to whom an Order under the Gas Regulation Act, 1920, shall have been made or to whom subsection (3) of section 7 of that Act applies by virtue of any public general Act, special Act or Special Order. [271]

**3. Contribution payable by cheque.**—Payment of the contribution shall be by cheque made payable to the Minister of Fuel and Power and crossed "Bank of England". [272]

**4. Citation.**—This Order may be cited as the Gas Fund (Contribution) Order, 1946. [273]

\* \* \* \* \*

## THE GAS AND ELECTRICITY COMPANIES (RELAXATION OF OBLIGATIONS) (REVOCATION) ORDER, 1946

S. R. &amp; O., 1946, No. 1504

August 30, 1946

The Minister of Fuel and Power, in pursuance of Regulations 56 and 98 of the Defence (General) Regulations, 1939, as having effect by virtue of

the Supplies and Services (Transitional Powers) Act, 1945, hereby orders as follows :—

1. The Gas and Electricity Companies (Relaxation of Obligations) Order, 1942, is hereby revoked. [274]

2. This Order shall come into force on the thirteenth day of September, 1946, and may be cited as the Gas and Electricity Companies (Relaxation of Obligations) (Revocation) Order, 1946. [275]

\* \* \* \*

### EXPLANATORY NOTE

*(This Note is not part of the Order, but is intended to indicate its general purport.)*

*The Gas and Electricity Companies (Relaxation of Obligations) Order, 1942, relaxed the statutory obligation imposed upon any public utility undertaking (being an undertaking carried on by a company as therein defined) for the supply of gas and electricity to hold meetings or to balance its books more than once a year to the extent therein specified.*

*This Order revokes the 1942 Order. Accordingly the statutory obligation referred to in the above paragraph is now again operative.*

### CASES

*Gas—Local authority owning gas pipes laid under public highways by virtue of statutory powers—Right to subjacent support—Damage to pipes from subsidence of surface land caused by mining operations—Right of authority to damages—Gasworks Clauses Act, 1847 (c. 15), s. 6—Public Health Act, 1875 (Support of Sewers) Amendment Act, 1883 (c. 37), s. 4.*

Newcastle-under-Lyme corporation were the gas undertakers for the area covered by their borough, and their gas mains had been laid pursuant to successive local Acts embodying s. 6 of the Gasworks Clauses Act, 1847, which provides: "The undertakers . . . may open and break up the soil and pavement of the several streets and bridges within the limits of the special Act . . . and lay down and place within the same limits, pipes, conduits, service pipes, and other works . . . and they may . . . do all other acts which the undertakers shall from time to time deem necessary for supplying gas to the inhabitants of the district included within the said limits. . . ." The defendant company mined certain seams of iron and coal and in the course of their workings let down the surface of the soil and damaged some of the corporation's gas mains. In an action by the corporation against the defendant company for damages in respect of the said damage :—

*Held:* (i) S. 6 of the Gasworks Clauses Act, 1847, did not confer on the corporation any legal or equitable right in the soil which surrounded the gas mains, but only a right to possession of the gas mains and the cavity filled by them.

(ii) the corporation never acquired any right of support against the defendant company except the implied right arising from the exercise of the corporation's statutory privilege and founded on the principle that

when the legislature gives power to do something the execution of which requires subjacent support from land the persons who do the act acquire such a right to support as against the landowner : see *Normanton Gas Co. v. Pope and Pearson, Ltd.* (1883), 52 L. J. Q. B. 629 ; but that implied right was swept away by s. 4 of the Public Health Act, 1875 (Support of Sewers) Amendment Act, 1883, and the corporation had no right to support for their gas mains whether laid before or after 1883.

(iii) the corporation had failed to prove that, at the passing of the Public Health Act, 1875 (Support of Sewers) Amendment Act, 1883, no compensation was recoverable in respect of the right to support of pipes laid before 1883, and so had not satisfied the condition for the preservation of such right in the second part of s. 5 of the Act.

(iv) there was nothing in s. 4 of the Act of 1883 which limited the operation of that section to land within 40 yards from the gas mains, and, therefore, there would be an implied right to support as regards land outside that limit.

*Decision of EVERSHED, J.* ([1946] 2 All E. R. 447), *reversed*.—*NEWCASTLE-UNDER-LYME CORPN. v. WOLSTANTON, LTD.*, [1947] 1 All E. R. 218 ; 176 L. T. 242 ; 111 J. P. 102 ; 63 T. L. R. 162 ; 91 Sol. Jo. 84 ; 45 L. G. R. 221. [276]

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## HARBOURS

ORDERS, CIRCULARS AND MEMORANDA :—

Railway-owned Harbours, Docks and Piers (Increase of Charges) Order, 1946 — PAGE 119

### ORDERS, CIRCULARS AND MEMORANDA

#### THE RAILWAY-OWNED HARBOURS, DOCKS AND PIERS (INCREASE OF CHARGES) ORDER, 1946

*S. R. & O.*, 1946, No. 846

*June 15, 1946*

The Minister of Transport in exercise of the powers conferred upon him by Regulation 56 of the Defence (General) Regulations, 1939, as having effect by virtue of the Supplies and Services (Transitional Powers) Act, 1945, and of all other powers enabling him in that behalf, hereby makes the following Order :—

1. The Railway-owned Harbours, Docks and Piers (Increase of Charges) Order, 1940, is hereby revoked. [277]

2. In this Order the expression "Railway Companies" means the Southern Railway Company, the Great Western Railway Company, the London Midland and Scottish Railway Company, the London and North Eastern Railway Company and any Joint Committee of any two or more of the before-mentioned railway companies. [278]

3. Notwithstanding any obligation or limitation imposed upon the railway



companies by or by virtue of any Act or other instrument determining their functions the railway companies may charge in respect of the undertakings named in Part I of the Schedule hereto the rates dues and other charges specified in Part II thereof.

Provided that this Order shall not apply to (i) Labourage charges which have been varied since the 3rd September, 1939, or which may be varied during the currency of this Order in consequence of alterations in rates of wages; and (ii) any charges in respect of through traffic which are increased under the provisions of the Railways (Additional Charges) Order, 1946, or any Order modifying such Order. [279]

4. This Order may be cited as "The Railway-owned Harbours, Docks and Piers (Increase of Charges) Order, 1946," and shall come into force on the 1st July, 1946. [280]

## THE SCHEDULE

### PART I

#### *Undertakings*

Aberdovey Harbour.	Gourock Pier.
Barry Docks.	Grangemouth Harbour and Docks.
Brentford.	Gravesend Floating Stages.
Bridgwater Dock.	Cowes (Medina Wharf).
Briton Ferry Dock.	Folkestone Harbour.
Burry Port.	Gravesend Pier and Basin.
Bute Docks, Cardiff.	Langston Wharf.
Alloa Harbour and Dock.	Newhaven Harbour.
North Blyth Staiths.	Port Victoria.
South Blyth Staiths.	Queenborough Pier.
Bo'ness Harbour and Dock.	Chelsea Basin.
Burntisland Harbour and Docks.	Lydney Harbour and Dock.
Charlestown Harbour.	Highbridge Dock.
Wyre Docks.	Dunball.
Foryd Wharf.	Fishguard Harbour.
Garston Docks.	Llanelly Dock.
Newport Docks.	Parkeston Quay.
Penarth Harbour and Dock.	Percy Main (Northumberland Dock)
Plymouth Docks.	Staiths.
Port Talbot Docks.	Pettycur Harbour.
Swansea Docks.	Silloth Dock.
Harwich Quays and Piers.	Winteringham Haven.
Hull Docks.	Kincardine Pier and Harbour.
Immingham Dock.	Heysham and Morecambe Harbours.
Lowestoft Harbour.	Holyhead Harbour.
Mallaig Piers.	Kentallen Pier.
Connah's Quay Dock.	Kyle of Lochalsh Pier.
Craigendoran Pier.	Largs Harbour.
Dunston Staiths.	Oban Pier.
West Dunston Staiths.	Poplar Docks.
Grimsby Docks.	Renfrew Wharf.
The Docks at Hartlepool and West Hartlepool.	Stranraer East Pier.
Ayr Harbour.	Tilbury Floating Stage.
Barrow Harbour and Docks.	Troon Harbour.
Bowling Harbour.	Wemyss Bay Pier.
Deganwy Wharf.	Ryde Pier.
Fairlie Pier.	St. Helens Wharf.
Fleetwood Harbour.	Southampton Docks.
Methil Harbour and Docks.	Stonehouse Pool.
Middlesbrough Dock.	Strood Dock.
	Whitstable Harbour. [281]

## PART II

*Authorised Charges*

(1) The rates, dues and other charges on Coasting Liners, when carrying mixed cargoes of merchandise and operating on regular scheduled services, and on the cargoes of such liners, in force on August 31, 1939.

With an addition thereto of an amount not exceeding 15 per cent.

(2) All other rates, dues and charges in force on August 31, 1939.

With an addition thereto of an amount not exceeding 40 per cent.

Provided that if any increased rate, due or other charge made in pursuance of this Order includes a fraction of a farthing, the fraction if less than half a farthing, shall be dropped, or if the fraction amounts to half a farthing but is less than a farthing it shall be charged as a farthing. [282]

Note as to S.R. & O. 1946 No. 846.—*The effect of this Order is to authorise those rates, dues and other charges which had been permitted to be increased by the Order now revoked by 7½ per cent. and 20 per cent. respectively to be increased by 15 per cent. and 40 per cent. respectively.*

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## STATUTES

### THE TRUNK ROADS ACT, 1946

(9 & 10 Geo. 6, c. 30)

#### PRELIMINARY NOTE

The Trunk Roads Act, 1946, amends the law relating to trunk roads. The Trunk Roads Act, 1936 (29 Halsbury's Statutes 183), the principal Act, constituted 4,459 miles of roads "trunk roads" and made the Minister of Transport the highway authority therefor. The primary purpose of the present Act is to add a further 3,685 miles of roads thereto, and to enable the Minister, upon whom a duty is placed to keep under review the national system of routes for through traffic, to constitute additional trunk roads or exclude those no longer required, as may be expedient for re-organising that system. In addition, the Act transfers private bridges carrying trunk roads to the Minister and enlarges his powers in a number of respects with a view to enabling him in planning and carrying out schemes of new construction or improvement to adopt modern conceptions of layout in the interests of safety, convenience and the preservation of amenities.

The additional roads added by the Act are specified in Sched. I and became trunk roads as from April 1, 1946 (s. 1 (1)).

Apart from the provisions of s. 1 (5) of the principal Act, which authorised the Minister to modify the list of trunk roads created by s. 1 (2) and Sched. I of that Act for a limited purpose and period, the power given to the Minister of creating new

trunk roads, which may be either existing roads or roads which he proposes to construct, and of excluding old ones, is a new power. The Minister must take into consideration the requirements of local and national planning, including the requirements of agriculture, and is to exercise the power by means of an order directing that the road shall become, or, as the case may be shall cease to be, a trunk road as from a specified date (s. 1 (2)). Subject to the provisions of the present Act, the principal Act will apply to roads becoming or ceasing to be trunk roads by virtue of s. 1 or of any order made thereunder, as it applies to roads becoming or ceasing to be trunk roads under that Act (s. 1 (4)). S. 2 of that Act, however, which excluded roads within the county of London or a county borough from becoming trunk roads, now ceases to have effect, except as respects roads in the City of London, through which it is unlikely that trunk roads will ever run (s. 1 (3)), provided that, subject to the provisions of s. 1 (1) or to an order under s. 1 (2), no road which was not previously a trunk road shall become a trunk road by virtue only of this provision. Although the principle of leaving with local authorities the responsibility for routes serving mainly local traffic, which was the reason for excluding roads within these areas in 1936, is adhered to by the present government, it has been found desirable for two reasons to provide for such roads becoming trunk roads. Firstly, divided responsibility, where a national route crosses such an area (which in some cases it does more than once), has proved an obstacle to the maintenance of a uniform standard of upkeep and to the maintenance of the roadway; and, secondly, a number of county boroughs have built by-pass or "outer-ring" roads, which are intended to divert through traffic from the centre of the town, and which are not restricted to serving mainly local traffic (see 139 H. of L. Official Report 170).

The procedure to be followed by the Minister before making an order under s. 1 (2) is set out in Sched. II. He is to publish a notice in a local newspaper and the London Gazette and serve a copy on any local authority (other than a Rural District Council) concerned. If within three months any such authority objects to the proposed order, a local inquiry is to be held. A local inquiry is also to be held if objection is made within the same period by any other person appearing to the Minister to be affected unless in the special circumstances of the case the Minister considers an inquiry unnecessary. After considering any objections which are not withdrawn and the report of the person holding an inquiry, the Minister may make the order with or without modifications (Sched. II). Where, however, objection which is not withdrawn is made by a local authority the order will be provisional only and subject to special parliamentary procedure under the Statutory Orders (Special Procedure) Act, 1945 (38 Halsbury's Statutes 439) (s. 2 (1)).

In the interests of safety and the convenience of traffic additional powers are conferred on the Minister relating to one-way roads (s. 3 (1)), and to cycle-tracks and footpaths which may be constructed so as to be separated by intervening land from the trunk road with which they are associated (s. 3 (2)).

The Minister is also given powers of improving, constructing and stopping-up side roads connecting with trunk roads, the number or bad construction of which is frequently a cause of potential danger to traffic in both roads (s. 4 (1)). These powers will be exercised by orders made in accordance with Sched. II, but no such order authorising the stopping-up of any road may be made unless a sufficient alternative connection is provided within 440 yards. An order providing for the construction of such a road may provide in accordance with s. 4 (3) for the local authority becoming the highway authority therefor.

The Act confers on the Minister the power which highway authorities have under s. 13 of the Restriction of Ribbon Development Act, 1935 (28 Halsbury's Statutes 91), of purchasing land adjacent to a road for the purpose of preserving the view therefrom or the amenities of the locality (s. 5 (1)).

The Minister is empowered to make provision by an order under s. 1 for the construction as part of a trunk road of a bridge or tunnel over or under navigable waters (s. 6 (1)). Before the passing of the Act the authorisation of any such project required the sanction of a special Act of Parliament. Before making any such order the Minister must take into consideration the reasonable requirements of navigation, and the provisions of Sched. II will be modified in their application thereto, so as to include navigation authorities and catchment boards among the persons to whom notice must be given and who may by objecting compel the adoption of special parliamentary procedure (s. 6 (3)). The Minister has exercised this power to make a draft order for the building of a bridge over the River Severn,

Difficulties have in the past arisen in connection with the making of improvements to privately-owned bridges forming part of trunk roads. Protracted negotiations had, as a rule, to be entered into for dividing the cost of such improvements between the highway authority and the owners, who were in the majority of cases Railway Companies, whose obligations were limited to maintaining a bridge adequate for the needs of the traffic at the time of its construction. The Act accordingly provides that bridges, as defined in s. 7 (9), carrying trunk roads are to be transferred to the Minister and become for all purposes part of the road (s. 7 (1)). The liability of the owners in respect of such bridges is extinguished and they are to pay the Minister a sum representing the value to them of such extinguishment (s. 7 (2) (b), (3)). The statutory rights of statutory undertakers are, however, preserved and where the bridge crosses any railway, canal, road or other works used by its owners the Minister may not reduce the headway or spans of the bridge without their consent (s. 7 (2) (c), (5)). As bridges may be productive of revenue, as advertising sites, or buildings on or under them may be let as shop or business premises, provision is made for excluding from transfer such property comprised in a transferred bridge as may be agreed between the Minister and the owners (s. 7 (2), proviso) and for the Minister paying to the owners the value of any lost revenue (s. 7 (3)).

The Act contains a number of miscellaneous provisions (s. 8) and has also temporary and transitional provisions designed to secure continuity of administration during the period from March 31, 1946, to March 31, 1948 (s. 9). Minor and consequential amendments, which are set out in Sched. III, are effected in the principal Act (s. 12 (1)), which, as amended, is to be construed as one with the present Act unless the context otherwise requires (s. 11 (3)). Consequently, the Minister's power to delegate to local authorities his functions under the principal Act (see s. 5 of that Act; 29 Halsbury's Statutes 191), as slightly enlarged by s. 8 (1) of this Act, is extended to cover his functions under both Acts. The Minister has stated his intention of continuing the policy of delegation, which has proved successful, while retaining general control in his own hands (415 H. of C. Official Report 1467).

The immediately ascertainable financial result of the Act is that the annual maintenance charge of £2,500,000 in respect of the roads specified in Sched. I is, as from April 1, 1946, borne in full by the Road Fund instead of by the local rates. As, however, most of these roads are classified as Class I roads under the Ministry of Transport Act, 1919, s. 17 (2) (3 Halsbury's Statutes 435) and attract thereby a 60 per cent. maintenance grant, the net increase to be borne by the Exchequer is estimated to be approximately £1,000,000. [283]

#### ARRANGEMENT OF SECTIONS

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*An Act to amend the law relating to Trunk Roads ; and for purposes connected therewith.* [284] [6th March 1946.]

**. 1. Additional trunk roads and reorganisation of trunk road system.—**

(1) Subject to the provisions of this Act, the roads specified in the First Schedule to this Act shall become trunk roads as from the first day of April, nineteen hundred and forty-six. [285]

(2) The Minister shall keep under review the national system of routes for through traffic in Great Britain, and if he is satisfied, after taking into consideration the requirements of local and national planning, including the requirements of agriculture, that it is expedient for the purpose of extending, improving or reorganising that system that any existing road, or any road proposed to be constructed by him, should become a trunk road, or that any trunk road should cease to be a trunk road, he may by order direct that that road shall become, or as the case may be shall cease to be, a trunk road as from such date as may be specified in that behalf in the order. [286]

(3) Section two of the principal Act (which excludes from the roads that are trunk roads under that Act roads in London and roads in county boroughs) shall cease to have effect, except as respects roads in the City of London :

Provided that, without prejudice to the provisions of subsection (1) of this section or to any order made under subsection (2) of this section, no road which was not a trunk road immediately before the commencement of this Act shall become a trunk road by virtue only of this subsection. [287]

(4) Subject to the provisions of this Act, the principal Act shall apply in relation to roads which become or cease to be trunk roads by virtue of this section, or of any order made thereunder, as it applies in relation to roads becoming or ceasing to be trunk roads under that Act. [288]

*Effect of section.*—See Preliminary Note, *ante*. On a road becoming a trunk road the Minister of Transport becomes the highway authority therefor (see the Trunk Roads Act, 1936, s. 1 ; 29 Halsbury's Statutes 185 ; and sub-s. (4), *supra*). As to the highway authority for a road which ceases to be a trunk road, see s. 2 (3), *post*. On the making of an order directing that a road shall become a trunk road every bridge within the meaning of s. 7 (9) carrying that road is transferred to the Minister ; see s. 7, *post*.

*"The Minister."*—This means the Minister of Transport (see s. 11 (1), *post*, and note thereto).

*"The principal Act."*—This is the Trunk Roads Act, 1936 (see s. 11 (1), *post*). For s. 2 of that Act, see 29 Halsbury's Statutes 187. As to the construction of this Act and the principal Act together, see s. 11 (3), (4), *post*.

*Definitions.*—For the meanings of "road" and "trunk road," see s. 13 (1) of the Trunk Roads Act, 1936 (29 Halsbury's Statutes 200), and s. 11 (1), *post*.

*Modification of the principal Act in its application to roads within the County of London* is made by s. 15 and Sched. IV, *post*.

*Procedure for making an order.*—As to the procedure for making an order under this section, see s. 2 (1) and Sched. II, *post*. The date on which a road becomes, or ceases to be, a trunk road will be the first day of April next after the order comes into effect, or, where a new trunk road is substituted for an old one, after the Minister gives notice that the new one is opened for traffic (s. 2 (2)).

There are approximately 180,000 miles of roads in Great Britain, of which about 4,500

miles became trunk roads under the 1936 Act and 3,685 (of which 754 are in Scotland) became trunk roads as from April 1, 1946, under the present Act.

The power to make orders under this section directing that a road shall become a trunk road is extended by s. 3, *post*, to apply to restricting the use of the road to one-way traffic, and to the construction of cycle tracks and footpaths separated by intervening land from the road. The power is also exercisable in respect of any road constructed by the Minister on land acquired by him under the New Towns Act, 1946 (see s. 7 (3) thereof, *post*).

**2. General provisions as to orders under section 1.**—(1) The provisions of the Second Schedule to this Act shall be complied with in connection with the making of an order under subsection (2) of section one of this Act ; and if objection to the order is duly made in accordance with the provisions of the said Schedule by a council who are responsible for the maintenance of any road to which the order relates, or who will become so responsible by virtue of the order, and is not withdrawn, the order shall be provisional only and shall be subject to special parliamentary procedure. [289]

(2) Where any such order directs that an existing road shall become a trunk road, or that a road shall cease to be a trunk road, the date to be specified in that behalf in the order shall be the first day of April next after the date on which the order takes effect, or, where the order directs both that a road shall cease to be a trunk road and that a road proposed to be constructed by the Minister on a new route in substitution therefor shall become a trunk road, the first day of April next after the date on which notice is given by the Minister to the council who will become responsible for the maintenance of the first-mentioned road that the new route is opened for the purposes of through traffic. [290]

(3) Where any such order directs that a road shall cease to be a trunk road, then, as from the date specified in that behalf in the order, the following authority, that is to say—

- (a) where the road is situated within a rural district, a county borough or a metropolitan borough, the council of the county comprising that district or the council of the county borough or metropolitan borough, as the case may be ;
- (b) where the road is situated within any other borough or within an urban district, the council of the county comprising that borough or district, or the council of the borough or district, according as the road is or is not designated by the order as a classified road,

shall become the highway authority for the road :

Provided that in the case of a road in the county of London—

- (a) where the road includes a bridge or tunnel which, immediately before the road became a trunk road, was vested in the London County Council, that council shall become the highway authority for the bridge or tunnel and so much of the road as is carried thereby, but without prejudice to any liability of the council of any metropolitan borough to maintain and repair the carriage-ways and footways over any such bridge ; and
- (b) if the Minister, after consultation with the London County Council and the council of the metropolitan borough in which the road is situated, considers that any other bridge or tunnel forming part of the road ought to be vested in the London County Council, the order may direct that that council shall become the highway authority for that bridge or tunnel and so much of the road as is carried thereby. [291]

(4) A road for which the council of a county or of a county borough become the highway authority by virtue of the last foregoing subsection shall be deemed to be a county road, and in relation to a road for which the



council of a county so become the highway authority section thirty-two of the Local Government Act, 1929 (which entitles the councils of certain boroughs and urban districts to claim the functions of maintenance and repair of county roads), shall have effect as if the road had become a county road on the date on which the order takes effect, but any functions of maintenance and repair claimed under the said section shall not be exercisable until the date on which the road becomes a county road. [292]

(5) If any order under section one of this Act, being an order which directs that a road proposed to be constructed by the Minister shall become a trunk road, is revoked or varied by a subsequent order made at any time before the date on which that road is opened for the purposes of through traffic, the revoking or varying order shall not be deemed for the purposes of this section to be an order directing that a road shall cease to be a trunk road. [293]

*"The Minister."*—This means the Minister of Transport (see s. 11, *post*, and note thereto).  
*Special parliamentary procedure.*—See the Statutory Orders (Special Procedure) Act, 1945 (38 Halsbury's Statutes 439). S. 1 of that Act (*ibid.* 441) provides that where in an Act power to make or confirm orders is conferred on any authority and provision is made requiring that any such order shall be subject to special parliamentary procedure, the provisions of that Act shall apply.

*Definitions.*—For the meanings of "road," "classified road" and "trunk road," see the Trunk Roads Act, 1936, s. 13 (1) (29 Halsbury's Statutes 200), and s. 11 (1), *post*. For the meaning of "County of London," see s. 11 (1), *post*.

*The Local Government Act, 1929, s. 32.*—10 Halsbury's Statutes 906.

### 3. Additional powers relating to one-way roads, cycle tracks, etc.—

(1) Where the Minister proposes to make an order under section one of this Act directing that any road shall become a trunk road and the Minister considers it expedient that that road, when it becomes a trunk road, should be used only for traffic passing in one direction, and that any other road, being a trunk road or a road which is to become a trunk road by virtue of the order, should be used only for traffic passing in the other direction, then, without prejudice to the power of the Minister to make orders under section forty-six of the Road Traffic Act, 1930, the order under the said section one may make provision for restricting the use of those roads accordingly as from such date as may be specified in that behalf in the order, and thereupon the said provision shall have effect as if it were contained in an order made under subsection (2) of the said section forty-six, and the provisions of that section shall apply in relation thereto as they apply in relation to an order made under that subsection. [294]

(2) Without prejudice to the powers of the Minister to improve trunk roads by the construction of cycle tracks and footpaths for use in connection therewith, or to provide such tracks or paths as part of any trunk road which he is authorised to construct, the power to make orders under section one of this Act directing that roads proposed to be constructed by the Minister shall become trunk roads may be exercised in relation to any such track or path proposed to be constructed by the Minister upon land separated by intervening land from the road in connection with which it is to be used; and any reference in the principal Act or this Act to a trunk road shall be construed as including a reference to a cycle track or footpath to which any such order relates:

Provided that in the application of the Act of 1935 to any such track or path as aforesaid, section one of that Act (which relates to the adoption of standard widths) shall not apply, and subsection (1) of section two of that Act (which relates to the restriction of development along the frontages of roads) shall have effect as if for the reference in paragraph (b) thereof to land within two hundred and twenty feet from the middle of the road there were substituted a reference to land forming the site of the track or path. [295]

(3) For the avoidance of doubt it is hereby declared that in calculating for the purposes of the Act of 1935 the middle of any trunk road in connection with which a cycle track or footpath is constructed, so much of the track or path as is separated from the road by any land not forming part of that road is to be disregarded. [296]

"*The Minister*."—This means the Minister of Transport (see s. 11 (1), *post*, and note thereto).

"*The principal Act*."—This is the Trunk Roads Act, 1936 (see s. 11 (1), *post*). For that Act, see 29 Halsbury's Statutes 183.

"*The Act of 1935*."—This is the Restriction of Ribbon Development Act, 1935 (see s. 11 (1), *post*). For ss. 1 and 2 (1) of that Act, see 28 Halsbury's Statutes 81, 82.

*Road Traffic Act*, 1930, s. 46, 46 (2).—23 Halsbury's Statutes 643, 644.

*Definitions*.—For the meanings of "road" and "trunk road," see s. 13 (1) of the Trunk Roads Act, 1936 (29 Halsbury's Statutes 200) and s. 11 (1), *post*.

#### 4. Additional powers relating to side roads connected with trunk roads.—

(1) Without prejudice to the powers of the Minister as highway authority to construct and improve roads, the Minister may be authorised by means of an order made by him in accordance with the provisions of the Second Schedule to this Act—

- (a) to carry out, in relation to any road specified in the order, such improvements as may be so specified, being improvements which the Minister considers it expedient to carry out for the purpose of effecting a safer or more convenient junction between a trunk road and any other road ;
- (b) to construct any road on a route so specified, being a road which the Minister considers it expedient to construct for the purposes aforesaid, or for the purpose of effecting a safe and convenient junction between a new road constructed by him as a trunk road and any road connected with a road which ceases to be a trunk road ;
- (c) subject as hereinafter provided, to stop up either entirely or to such extent as may be so specified, any junction between a trunk road and any other road, being a junction which the Minister considers it necessary or expedient so to stop up in the interest of the safety of persons or vehicles using those roads respectively :

Provided that the Minister shall not make an order authorising him to stop up any such junction unless he is satisfied that a sufficient alternative connection with the trunk road is available within four hundred and forty yards of the existing junction, or unless the order provides for the carrying out of such works as the Minister considers necessary for the provision of such an alternative connection before the existing junction is stopped up.

[297]

(2) Subject to the provisions of this section, the execution of any works by the Minister in accordance with an order made under this section shall be deemed for the purposes of the principal Act to be an improvement of the trunk road in connection with which they are executed, and without prejudice to the foregoing provision any such order may direct that, as from such date as may be specified in that behalf in the order, section four of the principal Act (which modifies the Act of 1935 in its application to trunk roads) shall apply in relation to any road proposed to be constructed by the Minister in accordance with the order, or in relation to so much of any road as the Minister proposes to improve thereunder, as if it had become a trunk road on that date. [298]

(3) An order under this section which provides for the improvement by the Minister of any road may direct that any land acquired by the Minister for the purpose shall, as from such date as may be determined by or under



the order, vest in the highway authority for that road; and an order under this section which provides for the construction by the Minister of a road may direct that, as from such date as may be so determined, the following authority, that is to say—

- (a) where the road is situated within a rural district, a county borough or a metropolitan borough, the council of the county comprising that district or the council of the county borough or metropolitan borough, as the case may be;
  - (b) where the road is situated within any other borough or within an urban district, the council of the county comprising that borough or district, or the council of the borough or district, according as the road is or is not designated by the order as a classified road,
- shall become the highway authority for the road. [299]

(4) The provisions of section seven of the principal Act (which relates to the transfer of property and liabilities), and the transitional provisions contained in the Fifth Schedule to that Act, shall apply in relation to a road for which any council become the highway authority by virtue of an order under this section as if it had previously been a trunk road, and subsection (4) of section two of this Act shall apply in relation to a road for which the council of a county or county borough become the highway authority by virtue of such an order as it applies in the case of orders made under section one of this Act. [300]

*Effect of section.*—The reasons for requiring the additional powers of this section were explained by the Minister of Transport on the Second Reading of the Bill (415 H. of C. Official Report 1471). He stated that unsatisfactory conditions on a trunk road were often a result of the number or character of connecting roads which were outside his jurisdiction as a highway authority. A bad angle of approach of a side road at a junction or too many junctions too close together tended to create unsafe conditions and impaired the use of the trunk road for its primary purpose of providing free and easy passage for long-distance traffic. The Parliamentary Secretary added in Committee that the substitution for a dangerous junction of a junction within 440 yards was considered by competent authorities to be both reasonable and safe. In many cases the alternative junctions would be within 220 yards of the ones which were stopped up (H. of C. Official Report, S.C.D., November 22, 1945, col. 69).

*"The Minister."*—This means the Minister of Transport (see s. 11 (1), *post*, and note thereto).

*"The principal Act."*—This is the Trunk Roads Act, 1936 (see s. 11 (1), *post*). For ss. 4 and 7 and Sched. V of that Act, see 29 Halsbury's Statutes 189, 194, 216.

*Definitions.*—For the meanings of "classified road," "improvement," "land," "property," "road" and "trunk road," see s. 13 (1) of the Trunk Roads Act, 1936 (29 Halsbury's Statutes 200) and s. 11 (1), *post*.

*"The Act of 1935."*—This is the Restriction of Ribbon Development Act, 1935 (see s. 11 (1), *post*).

*Procedure for making orders.*—The procedure set out in Sched. II applies to the making of orders under this section as it applies to orders made under s. 1 (2), *ante*, except that a notice of any stopping-up order must be displayed at the junction which is stopped up as well as published in a local newspaper and the London Gazette (see Sched. II, para. 3, *post*). It will be noted, however, that the provisions of s. 2 (1), *ante*, whereby orders made under s. 1 (2), *ante*, to which objection is made, become provisional orders subject to special parliamentary procedure, do not apply to orders under this section.

**5. Exercise by Minister of certain powers to purchase land in connection with trunk roads.**—(1) In relation to a trunk road, the power of a highway authority under section thirteen of the Act of 1935 to acquire land for purposes other than the construction or improvement of the road (that is to say the power to acquire land within two hundred and twenty yards from the middle of the road for the purpose of preventing the erection of buildings detrimental to the view from the road, and the power to acquire land by agreement for the purpose of preserving the amenities of the locality in which the road is situated) shall be exercisable by the Minister as well as by the authority by whom functions are exercisable under section one and section two of the said Act. [301]

(2) Section five of the principal Act (which enables the Minister to delegate to certain councils functions relating to trunk roads) and subsection (1) of section six of that Act (which enables the Minister to make agreements with such councils for the carrying out of works of improvement of or other dealings with trunk roads) shall apply in relation to any land purchased under this section, notwithstanding that the land does not form part of a trunk road, as they apply in relation to a trunk road. [302]

*"The Minister."*—This means the Minister of Transport (see s. 11 (1), *post*, and note thereto).

*"The principal Act."*—This is the Trunk Roads Act, 1936 (see s. 11 (1), *post*). For ss. 5 and 6 (1) of that Act, see 29 Halsbury's Statutes 191, 193.

*"The Act of 1935."*—This is the Restriction of Ribbon Development Act, 1935 (see s. 11 (1), *post*). For ss. 1, 2 and 13 of that Act, see 28 Halsbury's Statutes 81, 82, 91.

*Definitions.*—For the meanings of "improvement," "land," and "trunk road," see s. 13 (1) of the Trunk Roads Act, 1936 (29 Halsbury's Statutes 200), and s. 11 (1), *post*.

*Authorisation of compulsory purchase.*—By the Acquisition of Land (Authorisation Procedure) Act, 1946, ss. 1 (1) (b) and 2 (2), *ante*, respectively, the authorisation of any compulsory purchase of land by the Minister of Transport under the present section is to be conferred either by a compulsory purchase order in accordance with Sched. I to that Act, or, where the Minister is satisfied that it is urgently necessary in the public interest that he should obtain possession without delay, by an authorisation in writing given by him as confirming authority and subject to Sched. III to that Act. An authorisation in writing provides a method for speedy acquisition of land whereby possession may be obtained at any time within 7 days and 3 months after the giving of the authorisation; but unless the period is extended by Order in Council, it will not be available after April 18, 1951.

*Expenses.*—The Minister's expenses in acquiring land under sub-s. (1) and in managing, improving or otherwise dealing with it will be defrayed, with the consent of the Treasury, out of the Road Fund (s. 10 (2), *post*).

**6. Bridges and tunnels over and under navigable waters.**—(1) Without prejudice to any power of the Minister to construct bridges or tunnels for the purposes of trunk roads, provision may be made by an order under section one of this Act for the construction as part of a trunk road of a bridge over any navigable waters specified in the order, or of a tunnel under any such waters:

Provided that before making an order providing for the construction of any such bridge or tunnel, the Minister shall take into consideration the reasonable requirements of navigation over the waters affected by the order. [303]

(2) An order which provides for the construction of such a bridge shall include such plans and specifications as may be necessary to indicate the position and dimensions of the proposed bridge, including the spans, headways and waterways thereof, and, in the case of a swing bridge, shall contain such provisions as the Minister considers expedient for regulating the operation of the bridge; and an order which provides for the construction of such a tunnel shall include such plans and specifications as may be necessary to indicate the position and dimensions of the proposed tunnel, including the depth thereof below the bed of the sea, river or other navigable waters, as the case may be. [304]

(3) In relation to any such order as aforesaid, paragraphs 2 and 4 of the Second Schedule to this Act shall have effect as if any reference therein to the councils specified in the said paragraph 2 included a reference to every navigation authority or catchment board concerned with or having jurisdiction over the waters affected or the area comprising those waters; and if objection to the order is duly made in accordance with the provisions of the said Schedule by any such authority or board as aforesaid on the ground that the bridge or tunnel is likely to obstruct or impede the performance of their functions under any enactment, or to interfere with the reasonable requirements of navigation over the waters affected by the order, and the objection is not withdrawn, the order shall be subject to special parliamentary procedure. [305]

(4) In this section the expression "enactment" includes a local or private Act and an order having the force of an Act, and the expression "navigation authority" means any person or body of persons, whether incorporated or not, having powers under any enactment to work, maintain, conserve, improve or control any canal or other inland navigation, navigable river, estuary, harbour or dock. [306]

*Effect of section.*—See Preliminary Note, *ante*. The bridge over the Severn, proposals for the construction of which are contained in the first draft order to be made by the Minister under the Act, will, if erected, be the largest suspension bridge in Europe and reduce the distance between Bristol and South Wales by 50 miles and the distance from London by 10 miles.

"The Minister."—This means the Minister of Transport (see s. 11 (1), *post*, and note thereto).

*Definitions.*—For the meaning of "swing bridge," see s. 11 (1), *post*. For the meaning of "trunk road," see s. 13 (1) of the Trunk Roads Act, 1936 (29 Halsbury's Statutes 200) and s. 11 (1), *post*.

**7. Transfer to Minister of private bridges carrying trunk roads.**—(1) On the first day of April, nineteen hundred and forty-six, every bridge to which this section applies by which any road which is or becomes a trunk road on that date is carried shall be transferred to the Minister; and where an order is made under section one of this Act directing that any road specified in the order shall become a trunk road, every such bridge as aforesaid by which that road is carried shall be transferred to the Minister on the date on which the road becomes a trunk road:

Provided that if on the date aforesaid any part of the road carried by such a bridge is not a trunk road, the bridge shall not be transferred to the Minister by virtue of this section unless and until that part becomes a trunk road. [307]

(2) Where a bridge is transferred to the Minister under this section then, subject as hereinafter provided, the bridge, including any building or structure comprised therein and the road carried thereby, shall by virtue of this section vest in the Minister for all the estate or interest of the owners therein, and thereupon—

- (a) the bridge shall for all purposes become part of the trunk road; and
- (b) notwithstanding anything in subsection (7) of section three of the principal Act, any liability of the owners for the improvement, maintenance or repair of the bridge or the road shall be extinguished; and
- (c) any statutory provision in force, in relation to the bridge, for the protection or benefit of any statutory undertakers shall have effect, subject to any necessary modifications, as if for any reference therein to the owners of the bridge there were substituted a reference to the Minister:

Provided that the Minister and the owners may, by agreement in writing made either before or after the date on which the bridge is so transferred, agree that the provisions of this subsection with respect to the transfer of property shall not apply, or as the case may be shall be deemed not to have applied, to such property comprised in the bridge as may be specified in the agreement. [308]

(3) In respect of any bridge which is transferred to the Minister under this section, the owners shall pay to the Minister such sum as may be agreed between them and the Minister or, in default of such agreement, such sum as may be determined by arbitration, to represent the value to the owners of the extinguishment of their liability under the last foregoing subsection, and the Minister shall pay the owners such sum as may be so agreed or determined to represent the value to the owners of the bridge as an asset productive of revenue. [309]

(4) Any sum payable by the owners of a bridge to the Minister under the last foregoing subsection shall, in so far as it exceeds any sum payable by the Minister to the owners thereunder, be paid, at the option of the owners—

- (a) as a lump sum ; or
- (b) by annual payments of such amount, and continuing for such number of years, as may be agreed between the owners and the Minister or, in default of agreement, determined by arbitration ; or
- (c) by perpetual annual payments of such amount as may be so agreed or determined. [310]

(5) Where any bridge transferred to the Minister under this section carries the road over any railway, canal, road or other works used for the purposes of any undertaking carried on by the owners, then, so long as those works are so used—

- (a) the Minister shall before entering on any land of the owners for the purpose of executing any works for the maintenance, improvement or alteration of the bridge, give notice in writing to the owners specifying the general nature of the works proposed to be executed ; and
- (b) except with the consent of the owners, the Minister shall not reduce the headway or spans of the bridge ; and
- (c) if the headway of the bridge is reduced in consequence of subsidence due to mining operations, or of any works carried out by the owners for the purpose of raising the railway, canal, road or other works to a level not higher than their level before the subsidence occurred, the Minister shall, if so required by the owners, raise the bridge so far as may be necessary to give the same headway as before the subsidence occurred :

Provided that any consent required for the execution of any works by the Minister under this subsection shall not be unreasonably withheld, and if any question arises whether or not it is unreasonably withheld that question shall be determined by arbitration. [311]

(6) The purposes for which a compulsory purchase order may be made under section fourteen of the Act of 1935, as applied in relation to trunk roads by section four of the principal Act, shall include the execution of any works (other than the reconstruction of a bridge on a different site) for the maintenance, improvement or alteration of any bridge transferred to the Minister under this section, and in relation to any such order subsections (2) and (3) of the said section fourteen shall have effect as if any reference therein to the construction of a bridge or the approaches thereof included a reference to the reconstruction or alteration of the bridge. [312]

(7) Any dispute between the Minister and any authority or person as to the property or liabilities transferred under this section, or as to the liability of the Minister to carry out any works under this section, shall be determined by arbitration. [313]

(8) For the purposes of subsection (3) of this section, a bridge shall not be treated as an asset productive of revenue unless at the time when the bridge is transferred under this section—

- (a) a contract is in force under which payments have been made or will accrue to the owners in respect of the use of the bridge ; or
- (b) the bridge includes any building constructed or adapted for use by the owners for the purposes of their undertaking or for letting to any other person. [314]

(9) The bridges to which this section applies are bridges, including viaducts, which carry the road over any railway or road, over any canal, river, water-course, marsh or other place where water flows or is collected, or over any ravine or other depression, not being—

- (a) swing bridges ;
- (b) bridges which carry a railway as well as the road ; or
- (c) bridges to which a right to levy tolls is attached, or for the maintenance and repair of which any highway authority are responsible as such ;

and for the purposes of this section the expression "bridge" includes the abutments and walls thereof and so much of the approaches thereto as carries the road, and the expression "owners," in relation to a bridge, means the persons who, immediately before the transfer of the bridge to the Minister, were responsible for the maintenance and repair thereof, and includes any person[s] who, in pursuance of any agreement with the persons so responsible, were then discharging that responsibility on their behalf. [315]

(10) Nothing in this section shall be construed as affecting the provisions of section seven of the principal Act with respect to the transfer to the Minister, as part of a trunk road, of any bridge vested in the former highway authority. [316]

(11) Where a road carried by a bridge transferred to the Minister under this section ceases to be a trunk road, the Minister may contribute towards the expenses incurred in the maintenance and repair of the bridge by the council who become the highway authority for the road. [317]

*General effect of section.*—See Preliminary Note, *ante*. There are, according to the Minister of Transport, 960 bridges which were by virtue of this section transferred on April 1, 1946, to him, 525 of them appertaining to trunk roads which became trunk roads under the 1936 Act and 435 to the additional trunk roads created by the present Act (H. of C. Official Report, S.C.D., November 27, 1945, col. 84). There are in addition 8 swing bridges appertaining to these trunk roads. Swing bridges were, however, excluded from the clause in committee after the Minister had explained that he had discovered, after it was drafted, that he possessed all the powers he required under the Bridges Act, 1929 (9 Halsbury's Statutes 268) (*ibid.*, col. 88).

*The Minister.*—This means the Minister of Transport (see s. 11 (1), *post*, and note thereto).

*April 1, 1946.*—This is the date as from which, by s. 1 (1), *ante*, the roads specified in Sched. 1, *post*, became trunk roads and accordingly the bridges, as defined in sub-s. (9), *supra*, which were transferred to the Minister on that date, included such bridges carrying any of those trunk roads as well as those carrying trunk roads constituted under the Trunk Roads Act, 1936.

*The principal Act.*—This is the Trunk Roads Act, 1936 (see s. 11 (1), *post*). For ss. 3 (7), 4 and 7 of that Act, see 29 Halsbury's Statutes 189, 194.

*The Act of 1935.*—This is the Restriction of Ribbon Development Act, 1935 (see s. 11 (1), *post*). For s. 14 of that Act, see 28 Halsbury's Statutes 93.

*Definitions.*—For the meanings of "land," "property," "statutory undertakers," "road" and "trunk road," see s. 13 (1) of the Trunk Roads Act, 1936 (29 Halsbury's Statutes 200) and s. 11 (1), *post*. For the meaning of "swing bridge," see s. 11 (1), *post*.

The letter "s" in square brackets in sub-s. (9) is not in the King's Printer's copy of the Act, but appears to be required on grammatical grounds.

**8. Miscellaneous provisions relating to trunk roads.**—(1) The power of the Minister to delegate functions under subsection (1) of section five of the principal Act shall include power, with the consent of the council of the county, county borough or metropolitan borough in which the road is situated, to delegate to the council of a borough or urban district functions with respect to a trunk road outside that borough or district. [318]

(2) Nothing in section five or section six of the principal Act shall be construed as limiting the power of the Minister to enter into and carry into effect agreements with any authority or person for any purpose connected with the construction, improvement, maintenance or other dealing with a trunk road or otherwise connected with his functions under the principal Act or this Act ;

Provided that no such agreement shall provide for the delegation of

powers or duties of the Minister except in accordance with the provisions of the said section five. [319]

(3) For the purpose of the drainage of a trunk road, the Minister may exercise any powers exercisable by a local authority under the Public Health Act, 1936, or, in the case of a road in the County of London, under the Public Health (London) Act, 1936, for the purposes of the drainage of highways within the area of that authority. [320]

(4) The provisions of the Land Charges Act, 1925, with respect to the registration of local land charges shall apply to any prohibition or restriction on the use of land or buildings imposed by the Minister in relation to a trunk road—

- (a) by a notice served by him under section four of the Roads Improvement Act, 1925 ; or
- (b) by the prescription of a building line under section five of the last mentioned Act or of an improvement line under section thirty-three of the Public Health Act, 1925,

as if the notice or prescription were a local land charge, and any such prohibition or restriction shall be registered accordingly by the proper officer of the local authority within whose area the land to which it relates is comprised. [321]

(5) For the purposes of subsection (1) of section three of the Act of 1935, the restrictions specified in section two of that Act shall, in a case where those restrictions apply to a road by virtue only of subsection (2) of section four of the principal Act, or of that subsection as applied by section four of this Act, be deemed to have been first published—

- (a) where the road becomes a trunk road by virtue of an order made under section one of this Act, or where the said subsection (2) applies thereto by virtue of an order made under section four of this Act, on the date on which notice of the draft order is published in accordance with the provisions of the Second Schedule to this Act ;
- (b) where the road becomes a trunk road under this Act otherwise than by virtue of such an order, on the date on which it becomes a trunk road ; and
- (c) when the road became a trunk road by virtue of an order made under any of the provisions of the principal Act, on the date on which the road became a trunk road. [322]

(6) Subsection (7) of section three of the principal Act (which continues the liability of any authority or person to maintain and repair any road which immediately before it became a trunk road was not repairable by a local authority) shall cease to have effect in relation to the Menai Bridge and the road carried thereby. [323]

"*The Minister.*"—This means the Minister of Transport (see s. 11 (1), *post*, and note thereto).

"*The principal Act.*"—This is the Trunk Roads Act, 1936 (see s. 11 (1), *post*). For ss. 3 (7), 4 (2), 5 and 6 of that Act, see 29 Halsbury's Statutes 189, 191, 193. As to the construction of this Act with the principal Act, see s. 11 (3), (4), *post*.

"*The Act of 1935.*"—This is the Restriction of Ribbon Development Act, 1935 (see s. 11 (1), *post*). For ss. 2 and 3 (1) of that Act, see 28 Halsbury's Statutes 82, 83.

*Public Health Act, 1936.*—29 Halsbury's Statutes 309.

*Public Health (London) Act, 1936.*—30 Halsbury's Statutes 437.

*Land Charges Act, 1925.*—15 Halsbury's Statutes 524. For s. 15 thereof, relating to the registration of local land charges, see *ibid.* 538.

*Roads Improvement Act, 1925, ss. 4 and 5.*—9 Halsbury's Statutes 221, 223.

*Public Health Act, 1925, s. 33.*—13 Halsbury's Statutes 1128.

*Definitions.*—For the meanings of "land," "road" and "trunk road," see s. 13 (1) of the Trunk Roads Act, 1936 (29 Halsbury's Statutes 200) and s. 11 (1), *post*.



**9. Temporary and transitional provisions.**—(1) Subsections (5) and (6) of section one of the principal Act (which made temporary provision for enabling the Minister by order to modify the provisions of the First Schedule to that Act for the purpose of substituting for any road specified therein a road in course of construction at the date of the passing of that Act, or for the purpose of correcting or clarifying the description of any road specified in that Schedule) shall apply in relation to roads which become trunk roads by virtue of this Act subject to the following modifications, that is to say:—

- (a) for any reference to the First Schedule to that Act there shall be submitted a reference to the First Schedule to this Act;
- (b) for the reference to the passing of the principal Act there shall be substituted a reference to the passing of this Act, and for the words “the first day of April, nineteen hundred and thirty-seven” and the words “the thirty-first day of March, nineteen hundred and thirty-nine” there shall be substituted respectively the words “the first day of April, nineteen hundred and forty-six” and the words “the thirty-first day of March, nineteen hundred and forty-eight”; and
- (c) the reference to a county shall be construed as including a reference to a county borough and a metropolitan borough. [324]

(2) Subsection (4) of section five of the principal Act (which conferred on the Minister special powers exercisable for the purpose of securing continuity of administration during the period of two years following the thirty-first day of March, nineteen hundred and thirty-seven) shall have effect, in relation to any road specified in the First Schedule to this Act, as if for the references therein to the thirty-first day of March, nineteen hundred and thirty-seven and the thirty-first day of March, nineteen hundred and thirty-nine there were substituted respectively references to the thirty-first day of March, nineteen hundred and forty-six and to the thirty-first day of March, nineteen hundred and forty-eight. [325]

(3) The provisions set out in the Fifth Schedule to the principal Act (which relate to transitional matters) shall have effect for the purposes of this Act as if in paragraph 3 of the said Schedule for the reference to the first day of April, nineteen hundred and thirty-seven, there were substituted a reference to the first day of April, nineteen hundred and forty-six, and for the reference to the sixth day of July, nineteen hundred and thirty-six there were substituted a reference to the twenty-sixth day of October, nineteen hundred and forty-five. [326]

“*The Minister.*”—This means the Minister of Transport (see s. 11 (1), *post*, and note thereto).

“*The principal Act.*”—This is the Trunk Roads Act, 1936 (see s. 11 (1), *post*). For ss. 1 (5), (6) and 5 (4) thereof and Scheds. I and V thereto, see 29 Halsbury’s Statutes 186, 187, 192, 201, 216.

*Definitions.*—For the meanings of “road” and “trunk road,” see s. 13 (1) of the Trunk Roads Act, 1936 (29 Halsbury’s Statutes 200) and s. 11 (1), *post*.

*Delegation of powers.*—Under the Trunk Roads Act, 1936, s. 5 (4) (29 Halsbury’s Statutes 192) as extended by sub-s. (2), *supra*, the Minister has made the Trunk Roads (Delegation of Powers) Order, 1946 (S. R. & O., 1946, No. 496), *post*.

**10. Expenses.**—(1) All expenses incurred by the Minister with the approval of the Treasury under this Act in the construction, maintenance, repair or improvement of roads, and such of the expenses so incurred in other dealing with roads as may be determined by the Minister with the consent of the Treasury, shall be defrayed out of the Road Fund; and all other expenses of the Minister under this Act shall, to such amount as may be approved by the Treasury, be defrayed out of moneys provided by Parliament. [327]

(2) For the purposes of the last foregoing subsection any expenses incurred by the Minister in the acquisition of land under subsection (1) of section five of this Act, or in managing, improving, or otherwise dealing with such land, shall be deemed to be incurred in dealing with roads. [328]

(3) Any sums received by the Minister under section seven of this Act shall be paid into the Exchequer. [329]

"The Minister."—This means the Minister of Transport (see s. 11 (1), *post*, and note thereto).

*Road Fund.*—This Fund was established by the Roads Act, 1920, s. 3 (19 Halsbury's Statutes 87) and is controlled and managed by the Minister of Transport subject to regulations made by the Treasury with respect to accounts and investments and road improvement moneys transferred to it.

**11. Interpretation and construction.**—(1) In this Act the following expressions have the meanings hereby respectively assigned to them, that is to say :—

"Act of 1935" means the Restriction of Ribbon Development Act, 1935 :

"County of London" means the Administrative County of London as defined in subsection (1) of section one of the London Government Act, 1939, exclusive of the City of London :

"Minister" means the Minister of War Transport :

"Principal Act" means the Trunk Roads Act, 1936 :

"Swing bridge" includes any opening bridge operated by mechanical means :

and, except where the context otherwise requires, other expressions have the same meaning as in the principal Act. [330]

(2) For the avoidance of doubt it is hereby declared that for the purposes of the principal Act and this Act any road described in the First Schedule to that Act or in the First Schedule to this Act includes so much of any other road, not being itself a trunk road, as crosses that road on the level. [331]

(3) Any reference in this Act to the principal Act or to any other enactment shall, unless the context otherwise requires, be construed as a reference to that Act or enactment as amended by any subsequent enactment, including this Act. [332]

(4) Any reference in the Principal Act to that Act or to any provision thereof shall, unless the context otherwise requires, be construed as including a reference to this Act, or to that provision as amended by this Act, as the case may be. [333]

*Restriction of Ribbon Development Act, 1935.*—28 Halsbury's Statutes 81.

*London Government Act, 1939, s. 1 (1).*—32 Halsbury's Statutes 259.

*Trunk Roads Act, 1936.*—29 Halsbury's Statutes 183.

*Minister of War Transport.*—By the Ministry of War Transport (Dissolution) Order, 1946 (S. R. & O., 1946, No. 375) made under s. 1 (2) of the Ministers of the Crown (Transfer of Functions) Act, 1946, the Ministry of War Transport was dissolved and the functions of the Minister transferred to the Minister of Transport appointed under the Ministry of Transport Act, 1919 (3 Halsbury's Statutes 422).

**12. Amendments and repeal.**—(1) The provisions of the principal Act specified in the Third Schedule to this Act shall have effect subject to the amendments (being minor and consequential amendments) set out in relation thereto in the second column of that Schedule. [334]

(2) Subsection (3) of section three of the Town and Country Planning Act, 1944 (which provides for special publication of notice of an order made under that section authorising the compulsory purchase of land except where, amongst other cases, the land is required for a project which has been the subject of an inquiry for the purposes of subsection (3) of section one of the principal Act) shall have effect as if after the words "the Trunk Roads Act, 1936," there were inserted the words "or for the purposes of section one or section four of the Trunk Roads Act, 1946." [335]



(3) Subsections (3) and (4) of section one of the principal Act are hereby repealed :

Provided that without prejudice to the provisions of section thirty-eight of the Interpretation Act, 1889 (which relates to the effect of repeals) any order made before the commencement of this Act under subsection (3) of the said section one shall continue in force, and subsection (4) of that section shall apply in relation thereto, as if those subsections had not been repealed. [336]

"*The principal Act.*"—This is the Trunk Roads Act, 1936 (see s. 11 (1), *ante*). For s. 1 (3) of that Act, see 29 Halsbury's Statutes 186.  
*Town and Country Planning Act*, 1944, s. 3 (3).—37 Halsbury's Statutes 428.  
*Interpretation Act*, 1889, s. 38.—18 Halsbury's Statutes 1005.

**13. Supplementary provisions as to Manchester Ship Canal.**—Subsection (5) of section fourteen of the Act of 1935 (which precludes the compulsory acquisition by means of an order under that section of rights in land for the purposes of the construction of a bridge under or over the Manchester Ship Canal) shall not apply in relation to the acquisition of such rights under that section if the acquisition is required—

(a) for the purpose of the construction of a bridge for which provision is made by any such order as is mentioned in section six of this Act ; or

(b) for the purposes of the execution of any works (other than the reconstruction of a bridge on a different site) for the maintenance, improvement or alteration of a bridge transferred to the Minister under section seven of this Act. [337]

"*The Minister.*"—This means the Minister of Transport (see s. 11 (1), *ante*, and note thereto).

"*The Act of 1935.*"—This is the Restriction of Ribbon Development Act, 1935 (see s. 11 (1), *ante*). For s. 14 (5) of that Act, see 28 Halsbury's Statutes 94.

"*Improvement.*"—For the meaning of this term, see s. 13 (1) of the Trunk Roads Act, 1936 (29 Halsbury's Statutes 200) and s. 11 (1), *ante*.

#### 14. Application to Scotland. [338]

**15. Modification of principal Act in its application to London.**—For the purpose of the application of the principal Act and this Act to roads in the County of London with respect to which orders may be made under any of the foregoing provisions of this Act, the provisions of the principal Act specified in the Fourth Schedule to this Act shall have effect subject to the modifications set out in relation thereto in the second column of that Schedule, and any reference in this Act to the principal Act or to any provision of that Act or to any enactment applied by that Act, shall be construed, in relation to any such road, as a reference to that Act or to that provision or to that enactment, as the case may be, as modified by virtue of this section. [339]

"*The principal Act.*"—This means the Trunk Roads Act, 1936 (see s. 11 (1), *ante*). For that Act, see 29 Halsbury's Statutes 183.

Roads in the County of London were excluded from the provisions of the principal Act by s. 2 thereof (29 Halsbury's Statutes 187), which, except as respects roads in the City of London, is repealed by s. 1 (3), *ante*. The modifications of the principal Act set out in Sched. IV, *post*, are consequential upon this repeal.

**16. Saving for Rochester Bridge, Bideford Bridge and Barnstaple Bridge.**—The provisions of this Act with respect to the transfer of private bridges shall not apply to Rochester Bridge, Bideford Bridge and Barnstaple Bridge. [340]

These bridges date from the fourteenth century. The Government agreed to their exclusion from the provisions of the Act on receiving from the trustees of the bridges undertakings to

carry out any improvements or rebuilding if requested by them to do so, and on being satisfied that there were ample trust funds (over £150,000 in each case) to enable the trustees to implement their undertaking (418 H. of C. Official Report 235 (Rochester Bridge) and 139 H. of L. Official Report 417 (Bideford and Barnstaple Bridges)). For the interesting history of Rochester Bridge, see 418 H. of C. Official Report 230.

**17. Short title, citation and extent.**—(1) This Act may be cited as the Trunk Roads Act, 1946, and the principal Act and this Act may be cited together as the Trunk Roads Acts, 1936 and 1946. [341]

(2) This Act shall not extend to Northern Ireland. [342]

“*The principal Act.*”—This means the Trunk Roads Act, 1936 (see s. 11 (1), *ante*). For that Act, see 29 Halsbury's Statutes 183.

## SCHEDULES

### Section 1

### FIRST SCHEDULE

#### ADDITIONAL ROADS WHICH BECOME TRUNK ROADS

#### PART I

#### *Roads in Counties*

Name of trunk road	General description of route	Ministry of War Transport classification number
LONDON— CAMBRIDGE— KING'S LYNN.	London – Tottenham (Junction with A 1001) .. Tottenham— Junction with A 10 – Eastern junction with A 109 Eastern junction with A 1001 – Western junction with A 1001. Western junction with A 109 – Junction with A 108. Tottenham (Junction with A 1001) – South of Broxbourne. South of Broxbourne – Hoddesdon – Ware – Buntingford – Royston (High Street, Melbourne Street) – Cambridge – Ely – Littleport – Downham Market – South-east of King's Lynn (Junction with A 47).	A 10 A 1001 A 109 A 1001 A 108 A 10
EAST OF LONDON— SOUTHEND.	Gallow's Corner (Junction with A 12) – Southend	A 127
LONDON— TILBURY.	West Ham – East Ham – North of Grays Thurrock (Junction with A 1089). North of Grays Thurrock (Junction with A 13) – North of Tilbury (Junction with A 128). North of Tilbury (Junction with A 1089) – Tilbury (Junction with A 126). Tilbury (Junction with A 128) – Tilbury Riverside Station.	A 13 A 1089 A 128 A 126
LONDON— CANTERBURY— DOVER.	London – Rochester (High Street, Eastgate, Star Hill and New Road) – Chatham (New Road Avenue, New Road and Chatham Hill) – Gillingham – Sittingbourne – Canterbury – Dover (Junction with A 259).	A 2

Name of trunk road	General description of route	Ministry of War Transport classification number
LONDON— AYLESBURY— WARWICK— BIRMINGHAM.	Northway Circus (Apex Corner) – Brockley Hill (Junction with A 5).	A 500
	Watford By-pass ( $\frac{1}{4}$ mile South-east of river Colne) – Hunton Bridge.	A 500
	Hunton Bridge – Berkhamsted – Tring – Aylesbury.	A 41
	Aylesbury— Tring Road – High Street – Kingsbury Square – Buckingham Street (part) – Bicester Road.	A 41
	Aylesbury – Bicester – Banbury – Warwick – Birmingham.	A 41
LONDON NORTH CIRCULAR ROAD.	Chiswick – Ealing – Neasden – Hendon – Finchley (Western junction with A 555).	A 406
	Finchley (Eastern junction with A 555) – Southgate – Edmonton – Woodford – Gants Hill (Junction with A 12).	A 406
FOLKESTONE— BRIGHTON— SOUTHAMPTON— DORCHESTER— HONITON.	Folkestone (Junction with A 20) – Hythe (Prospect Road, Theatre Street, Rampart Road) – New Romney – Rye (Junction with Fishmarket Road).	A 259
	Rye— Fishmarket Road – South Undercliff – The Strand.	Unclassified
	Rye (Junction with The Strand) – Hastings – Bexhill – Pevensey.	A 259
	Pevensey – Polegate (Northern junction with A 22)	A 274
	Polegate (Northern junction with A 274) – Polegate (Southern junction with A 274).	A 22
	Polegate (Southern junction with A 22) – Lewes	A 274
	Lewes – Brighton . . . . .	A 26
	Brighton – Hove – Worthing (South-eastern junction with A 24).	A 27
	Worthing (South-eastern junction with A 27) –	A 24
	Worthing (North-western junction with A 27).	
	Worthing (North-western junction with A 24) –	A 27
	Arundel – Chichester – Emsworth – Portsmouth – Southampton.	
	Southampton – Millbrook . . . . .	A 3067
	Millbrook – Totton (Junction with A 36) . .	A 35
	Totton (Junction with A 35) – Totton (Junction with A 336).	A 36
	Totton (Junction with A 36) – Cadnam . . . .	A 336
	Cadnam – Ringwood – Wimborne Minster – Bere Regis.	A 31
BASINGSTOKE— NEWBURY.	Bere Regis – Dorchester – Bridport – West of Charmouth.	A 35
	West of Charmouth – Axminster – Honiton (Eastern junction with A 30).	A 373
	Basingstoke— Junction with A 30 at Black Dam – Eastrop Bridge – Eastern junction with A 33 (Reading Road).	A 339

Name of trunk road	General description of route	Ministry of War Transport classification number
BASINGSTOKE—NEWBURY— <i>cont.</i>	Basingstoke— Eastern junction with A 339 – Western junction with A 339. Basingstoke (Western junction with A 33) – Kingsclere – Newbury.	A 33 A 339
WEST OF SOUTHAMPTON—SALISBURY—BATH.	Totton (Junction with A 336) – Ower (Southern junction with A 31). Ower (Southern junction with A 36) – Wigley (Northern junction with A 36). Wigley (Northern junction with A 31) – Salisbury (Eastern junction with B 3389). Salisbury— Eastern junction with A 36 – Western junction with A 36. Western junction with B 3389 – Western junction with A 30. Wilton – Warminster – Bath .. .. .	A 36 . . A 31 A 36 B 3389 A 26 A 36
EXETER—LAUNCESTON—BODMIN.	Exeter – Okehampton – Launceston (Tavistock Road, Junction with A 388). Launceston— Tavistock Road (Junction with A 30) – Pages Cross. Pages Cross – Pennygillam Cross .. .. . Launceston (Pennygillam Cross) – Bodmin (Junction with A 38).	A 30 A 388 B 3254 A 30
TAUNTON—BARNSTAPLE—BUDE—FRADDON.	Taunton – Langford Bridge (Western junction with A 361). Langford Bridge (Western junction with A 358) – Wiveliscombe – South Molton – Barnstaple. Barnstaple – Instow (Northern junction with B 3233). Instow (Northern junction with A 39) – Instow (Southern junction with A 39) – Instow (Southern junction with B 3233) – Bideford – Stratton By-pass Stratton By-pass .. .. . Stratton By-pass – Camelford – Wadebridge – St. Columb Major – Fraddon (Northern junction with A 30).	A 358 A 361 A 39 B 3233 A 39 Unclassified A 39
WEST OF MAIDENHEAD—OXFORD.	Maidenhead Thicket – Henley-on-Thames (Southern junction with A 4155). Henley-on-Thames (Southern junction with A 428) – Henley-on-Thames (Northern junction with A 428). Henley-on-Thames (Northern junction with A 4155) Benson – Oxford.	A 423 A 4155 A 423
HUNGERFORD—GLOUCESTER—ROSS—HEREFORD.	Hungerford – Aldbourne (Junction with unclassified road to Baydon). Aldbourne – Lottage .. .. . Lottage – Ermine Street .. .. .	A 419 Unclassified Unclassified

Name of trunk road	General description of route	Ministry of War Transport classification number
HUNGERFORD— GLOUCESTER— ROSS— HEREFORD— <i>cont.</i>	Ermine Street— Junction with unclassified road from Lottage – Callas Hill – Stratton St. Margaret (Junction with A 420). Stratton St. Margaret— Junction with A 420 – Junction with A 361 .. South-eastern junction with B 4021 – North-western junction with B 4021. Stratton St. Margaret (North-western junction with A 361) – North-west of Stratton St. Margaret (Junction with A 419). North-west of Stratton St. Margaret (Junction with B 4021) – Cricklade – Cirencester. Cirencester – Birdlip – Gloucester .. .. Highnam Court (Junction with A 48) – Huntley – Ross – Wilton (Junction with A 49). Wilton (Junction with A 40) – Hereford (Southern junction with A 465).	Unclassified  B 4021 A 361  B 4021  A 419  A 417 A 40 A 49
BATH— CHELTENHAM— EVESHAM— COVENTRY— LEICESTER— LINCOLN.	Bath – Stroud – Cheltenham (Southern junction with B 4076). Cheltenham— Southern junction with A 46 – Junction with College Road. College Road – Hewlett Street – All Saints Road – Pittville Circus – Wellington Road (Junction with A 435). Cheltenham (Junction with Wellington Road) – Evesham – Norton (Junction with A 439). Norton (Junction with A 435) – Stratford-on-Avon (Junction with A 422). Stratford-on-Avon (Junction with A 439) – Stratford-on-Avon (Junction with A 34). Stratford-on-Avon (Northern junction with A 34) – Warwick – Coventry – Smockington (North-western junction with A 5). Smockington (North-western junction with A 46) – Smockington (South-eastern junction with A 46). Smockington (South-eastern junction with A 5) – Sharnford – Leicester – Six Hills – Newark-upon-Trent (South-western junction with A 1). Newark-upon-Trent (North-eastern junction with A 1) – Lincoln.	A 46  B 4076  Unclassified  A 435 A 439 A 422 A 46  A 5 A 46 A 46 A 46
IPSWICH— NEWMARKET— CAMBRIDGE— ST. NEOTS— BEDFORD— NORTHAMPTON— WEEDON.	Ipswich – Stowmarket – Bury St. Edmunds (Southern junction with A 1022). Bury St. Edmunds— Southern junction with A 45 – Junction with B 1060. Junction with A 1022 – Junction with St. Andrews Street South. St. Andrews Street South (Junction with B 1060) – Junction with A 45. Bury St. Edmunds (Junction with St. Andrews Street South) – North-east of Newmarket (Junction with A 11).	A 45  A 1022 B 1060  Unclassified  A 45

Name of trunk road	General description of route	Ministry of War Transport classification number
IPSWICH-	South-west of Newmarket (Junction with A 11) -	A 45
NEWMARKET-	Cambridge (South-eastern junction with A 10).	
CAMBRIDGE-	Cambridge (North-western junction with A 10) -	A 45
ST. NEOTS-	St. Neots - Eaton Socon (Southern junction with	
BEDFORD-	A 1).	
NORTHAMPTON-	North-east of Roxton (Junction with A 1) - Bed-	A 428
WEEDON—cont.	ford - Turvey - Northampton.	
	Northampton - Weedon (Junction with A 5) ..	A 45
ROYSTON-	Royston - Caxton - Godmanchester - Alconbury	A 14
HUNTINGDON-	Hill (Junction with A 1).	
ALCONBURY.		
OXFORD-	Oxford - South of Kidlington .. .. .	A 423
NORTHAMPTON-	South of Kidlington - Brackley - Towcester -	A 43
STAMFORD-	Northampton - Kettering (Junction with Sheep	
MARKET	Street A 6).	
DEEPING.	Kettering (Junction with London Road A 6) -	A 43
	Duddington (Southern junction with A 47).	
	Duddington (Northern junction with A 47) -	A 43
	Stamford (Junction with A 1).	
	Stamford (Junction with A 1) - Market Deeping	A 16
	(Junction with A 15).	
WEEDON-	Weedon (Junction with A 45) - Kilsby - Smock-	A 5
ATHERSTONE-	ington (South-eastern junction with A 46).	
BROWNHILLS.	Smockington (North-western junction with A 46)-	A 5
	West of Hinckley (South-eastern junction with	
	A 47).	
	West of Hinckley (North-western junction with	A 5
	A 47) - Atherstone - South of Lichfield (Southern	
	junction with A 38).	
	South of Lichfield (Northern junction with A 38) -	A 5
	Brownhills Common (Junction with A 452).	
WORCESTER-	Worcester - Kidderminster - Wolverhampton -	A 449
WOLVER-	Penkridge (617 yards north of Bull Bridge).	
HAMPTON-		
SOUTH OF		
STAFFORD.		
NORTH WEST OF	Kingswood Common (Junction with A 41) -	A 464
WOLVER-	Shifnal - South of Oakengates (Junction with	
HAMPTON-	A 5).	
OAKENGATES.		
KING'S LYNN-	King's Lynn - Long Sutton - Fleet Hargate ..	A 17
SLEAFORD-	Fleet Hargate - North of Holbeach (Junction with	B 1358
NEWARK.	A 17).	
	North of Holbeach (Junction with B 1358) -	A 17
	Sutterton - Sleaford.	
	Sleaford - Holdingham .. .. .	A 15
	Holdingham - Newark (Junction with Sleaford	A 17
	Road).	
	Newark (Sleaford Road and Queen's Road) ..	Unclassified

Name of trunk road	General description of route	Ministry of War Transport classification number
WIDMERPOOL-- NOTTINGHAM-- BAWTRY-- GOOLE-- HOWDEN.	Widmerpool (New Inn) - West Bridgford .. West Bridgford - West Bridgford (Junction with A 52). West Bridgford (Junction with A 60) - Nottingham Nottingham - Leapool .. .. . Leapool - Ollerton - Bawtry (Southern junction with A 1). Bawtry (Northern junction with A 1) - North of Hatfield Woodhouse (Junction with A 18). Tudworth Hall (Junction with A 18) - Thorne - Goole - Boothferry Bridge - Howden (Junction with A 63).	A 606 A 60 A 52 A 60 A 614 A 614 A 614
NORTH EAST OF BIRMINGHAM-- NOTTINGHAM.	Sutton Coldfield - Tamworth (Southern junction with A 51). Tamworth (Southern junction with A 453) - Tamworth (Northern junction with A 453). Tamworth (Northern junction with A 51) - Ashby de la Zouch (Western junction with A 50). Ashby de la Zouch (Western junction with A 453) - Ashby de la Zouch (Eastern junction with A 453). Ashby de la Zouch (Eastern junction with A 50) - Long Eaton - Nottingham.	A 453 A 51 A 453 A 50 A 453
NOTTINGHAM-- DERBY-- STOKE-ON- TRENT.	Nottingham - West of Spondon (Junction with A 5111). West of Spondon (Junction with A 52) - Derby Derby - Hatton .. .. . Hatton - Uttoxeter - Stoke-on-Trent .. ..	A 52 A 5111 A 516 A 50
DERBY-- MACCLESFIELD-- SOUTH OF STOCKPORT.	Derby - Ashbourne - East of Calton .. .. East of Calton - Leek - Macclesfield - Hazel Grove	A 52 A 523
STOKE-ON-TRENT-- MIDDLEWICH-- DELAMERE.	Stoke-on-Trent - Kidsgrove - Lawton Gate (Junction with A 5011). Rode Heath (Junction with A 50) - Middlewich .. Middlewich - Winsford - Delamere (Junction with A 556).	A 50 A 533 A 54
SHREWSBURY-- WHITCHURCH-- WARRINGTON.	Shrewsbury (Junction with A 5) - Shrewsbury (Castle Gates). Shrewsbury (Castle Gates) - Battlefield .. .. Battlefield - Whitechurch Heath (Junction with A 41). Whitchurch (Northern junction with A 41) - Tarporley - Warrington.	A 49 A 53 B 5064 A 49
SHOTWICK-- FRODSHAM-- WARRINGTON.	Shotwick - South-west of Helsby .. .. South-west of Helsby - Frodsham - Walton Inferior. Walton Inferior - Warrington .. .. .	A 5117 A 56 A 5060



Name of trunk road	General description of route	Ministry of War Transport classification number
LIVERPOOL- WARRINGTON- STOCKPORT- SHEFFIELD- LINCOLN- SKEGNESS.	<p>Liverpool - Prescot - Warrington .. .. . A 57</p> <p>North of Grappenhall (Junction with A 50) - Lymm - Bowdon (New Bridge, junction with A 556). A 56</p> <p>Altrincham (Junction with A 56) - Cheadle (Western junction with A 34). A 560</p> <p>Cheadle (Western Junction with A 560) - Cheadle (Eastern Junction with A 560). A 34 . .</p> <p>Cheadle (Eastern junction with A 34) - Stockport - West of Mottram. A 560</p> <p>West of Mottram - Hollingworth .. .. . A 57</p> <p>Hollingworth - North-west of Langsett (Flouch Inn). A 628</p> <p>North-west of Langsett (Flouch Inn) - Sheffield Sheffield - Worksop - Markham Moor (Northern junction with A 1). A 616</p> <p>Markham Moor (Southern junction with A 1) - Dunham - Lincoln. A 57</p> <p>Lincoln - Wragby - Horncastle (Northern junction with A 153). A 158</p> <p>Horncastle (Northern junction with A 158) - Horncastle (Southern junction with A 158). A 153</p> <p>Horncastle (Southern junction with A 153) - West of Hagworthingham. A 158</p> <p>West of Hagworthingham - Partney (Junction with A 16). B 1432</p> <p>Partney (Junction with A 16) - Burgh-le-Marsh - Skegness (Junction with A 154). A 158</p>	
MANCHESTER- BURNLEY.	Manchester - Prestwich - Bury - Rawtenstall - Burnley. A 56	
MANCHESTER- HYDE- MOTTRAM.	Manchester - Denton - Hyde - West of Mottram (Junction with A 560). A 57	
NORTH OF ST. HELENS- SOUTHPORT.	North of St. Helens (Junction with A 580) - Ormskirk - Southport. A 570	
BOOTLE- SOUTHPORT- SOUTH OF PRESTON.	Bootle - Southport - Tarleton .. .. . A 565	
BOOTLE- NORTH OF AINTREE.	<p>Seaforth Sands Station (Junction with A 565) - Litherland. A 5036</p> <p>Litherland - East of Netherton (Junction with A 59). A 567</p>	

Name of trunk road	General description of route	Ministry of War Transport classification number
NORTH-WEST OF DONCASTER- WAKEFIELD- BRADFORD- SKIPTON- KENDAL.	Redhouse (Aldwick le Street) - Ackworth - Wakefield.	A 638
	Wakefield - Morley - Bradford - Keighley (Junction with A 6035).	A 650
	Keighley (Junction with A 650) - Keighley (Junction with A 629).	A 6035
	Keighley (Junction with A 6035) - Skipton (Junction with A 59).	A 629
	Skipton (Junction with A 629) - Skipton (Northern junction with A 65).	A 59
	Skipton - Settle - Kirkby Lonsdale - Kendal ..	A 65
LEEDS-HALIFAX- BURNLEY- BLACKBURN- EAST OF PRESTON.	Leeds - Halifax .. .. .	A 58
	Halifax - Hebden Bridge - Todmorden - Burnley	A 646
	Burnley - Accrington - Blackburn .. ..	A 679
	Blackburn - County boundary (North of Leeds - Liverpool Canal) - County boundary (South of L.M.S. Railway, Great Harwood Loop).	A 6119
	Blackburn - South of Mellor Brook (Junction with A 6063).	A 677
PRESTON- BLACKPOOL.	Preston - Kirkham - Blackpool .. .. .	A 583
EAST OF SNAITH- YORK-THIRSK- STOCKTON-ON- TEES- SUNDERLAND.	Turn Bridge - Snaith .. .. .	A 645
	Snaith - Selby (Junction with A 19) .. ..	A 1041
	Barlby (Southern junction with A 63) - York - Thirsk - Yarm - Stockton-on-Tees (Junction with A 67).	A 19
	Stockton-on-Tees (Junction with A 176) - Wolveston - Easington - New Seaham - Sunderland.	A 19
LEEDS-YORK- SCARBOROUGH.	Leeds - Tadcaster - York - Malton - Scarborough	A 64
YORK-HULL	York - Market Weighton - Beverley - Hull ..	A 1079
LEEDS- WETHERBY.	Leeds - Wetherby .. .. .	A 58
BOROUGHBRIDGE- -THIRSK	Boroughbridge - Topcliffe .. .. .	A 167
	Topcliffe - Thirsk .. .. .	A 168
	Thirsk (Southern junction with A 168) - Thirsk (Junction with A 19).	A 61
LEVENS BRIDGE- BROUGHTON-IN- FURNESS- WORKINGTON- ASPATRIA- CARLISLE.	Levens Bridge - Newby Bridge - Greenodd ..	A 590
	Greenodd - Lowick Green .. .. .	A 5084
	Lowick Green - Gawthwaite .. .. .	B 5280
	Gawthwaite - Grizebeck .. .. .	B 5281
	Grizebeck - Broughton-in-Furness - Hallthwaites	A 595
	Hallthwaites - Whicham .. .. .	B 5283
	Whicham - Egremont - Whitehaven - Lilly Hall	A 595
	Lilly Hall - Workington - Maryport - Aspatria - Wigton - Thursby.	A 596
	Thursby - Carlisle .. .. .	A 595

Name of trunk road	General description of route	Ministry of War Transport classification number
GREENODD—BARROW-IN-FURNESS.	Greenodd — Ulverston — Dalton — in — Furness — Barrow-in-Furness.	A 590
CARDIFF—BRECON—BUILTH WELLS—LLANGURIG.	Cardiff — Pontypridd — Merthyr Tydfil — Brecon.. Brecon (Junction with A 470) — Brecon (Junction A 438). Brecon — Pont-y-Bat Cross Roads .. .. Pont-y-Bat Cross Roads — Llyswen .. .. Llyswen — Builth Wells (Southern junction with A 483). Builth Wells (Northern junction with A 483) — Newbridge-on-Wye — Rhayader. Rhayader — Llangurig (Northern junction with A 492).	A 470 A 40 A 438 A 4073 A 479 A 479 A 44
NEATH—ABERGAVENNY.	Neath — Glyn-Neath — Hirwaun — Merthyr Tydfil — Tredegar — Brynmawr — Abergavenny (Junction with A 40).	A 465
RAGLAN—ABERGAVENNY—BRECON—LLANDOVERY.	Raglan — South of Abergavenny (Junction with A 4042). Abergavenny (Eastern junction with A 465) — Brecon (Junction with A 438). Brecon (Junction with A 470) — Senny Bridge — Llandoverly (Junction with A 483).	A 40 A 40 A 40
NEWPORT—MONMOUTH—ROSS-ON-WYE—WORCESTER.	Newport — Caerleon (High Street) — Usk — Raglan Raglan — Monmouth .. .. Monmouth— Junction with A 40 — Junction with A 466 .. Junction with A 4136 — Junction with A 40 .. Monmouth (Junction with A 466) — Wilton (Junction with A 49). Ross-on-Wye (Junction with A 40) — Ledbury — Great Malvern — Worcester.	A 449 A 40 A 4136 A 466 A 40 A 449
LLANDILO—CARMARTHEN.	Llandilo (Northern junction with A 483) — Carmarthen (Junction with A 48).	A 40
HAVERFORDWEST—MILFORD HAVEN.	Haverfordwest — Milford Haven .. ..	A 4076
FISHGUARD—ABERYSTWYTH—DOLGELLEY—CAERNARVON—BANGOR (MENAI SUSPENSION BRIDGE).	Fishguard — Cardigan — Aberayron — Aberystwyth — Machynlleth — Dolgelley — Maentwrog — Penrhyn-deudraeth. Penrhyn-deudraeth — Minffordd .. .. The public road from Minffordd via Portmadoc to Tremadoc from its junction with A 497 at Minffordd to its junction with A 498 at Tremadoc. Tremadoc — West of Tremadoc (Junction with A 4085). West of Tremadoc (Junction with A 408) — Llanwnda. Llanwnda — Caernarvon — North-east of Port Dinorwic. North-east of Port Dinorwic — Menai Suspension Bridge (Junction with A 5).	A 487 A 497 A 498 A 4085 A 499 A 4087

Name of trunk road	General description of route	Ministry of War Transport classification number
NEWTOWN- ABERYSTWYTH.	Newtown - Llanidloes - Llangurig (Northern junction with A 44).	A 492
	Llangurig (Northern junction with A 492) - Port-erwyd - Aberystwyth.	A 44
SHREWSBURY- DOLGELLEY.	West of Shrewsbury (Shelton) Middletown - Buttington (Junction with A 483).	A 458
	Welshpool (Junction with A 483) - Llanfair Caereinion - Mallwyd - Cross Foxes.	A 458
DOLGELLEY- BALA-RUTHIN- QUEENSFERRY- SOUTH OF BIRKENHEAD.	Dolgelly - Bala - Druid (Junction with A 5) ..	A 494
	Tyn-y-cefn (Junction with A 5) - Ruthin - Mold (Junction with A 549).	A 494
	Mold—	
	Junction with A 494 - Junction with B 5123 ..	A 549
	Junction with A 549 - Junction with A 494 ..	B 5123
	Mold (Junction with B 5123) - Ewloe (Western junction with A 55).	A 494
	Ewloe (Eastern junction with A 55) - Queensferry	A 494
	Queensferry (Junction with A 494) - Queensferry (Junction with A 548).	A 550
	Queensferry (Southern junction with A 550) - North of Queensferry (Northern junction with A 550).	A 548
	North of Queensferry (Northern junction with A 548) - North of Childer Thornton.	A 550
MAENTWROG- BETTWS-Y- COED-EAST OF CONWAY.	Felin Ty'n-y-nant (Junction with A 487) - Ffestiniog Railway Station.	B 4408
	Ffestiniog Railway Station - Ffestiniog (Western junction with B 4408).	B 4391
	Ffestiniog (Western junction with B 4391) - Manod Station.	B 4408
	Manod Station - Blaenau Ffestiniog - Dolwyddelan - Waterloo Bridge, Bettws-y-Coed (Southern junction with A 5).	A 496
	Waterloo Bridge, Bettws-y-Coed (Northern junction with A 5) - Llanrwst - North of Glan Conway (Eastern junction with A 55).	A 496
NEWCASTLE- UPON-TYNE- EDINBURGH.	Newcastle-upon-Tyne - Ponteland - Otterburn - Elishaw.	A 696
	Elishaw - Carter Bar - Jedburgh - Lauder - Dalkeith - Edinburgh.	A 68
DUMFRIES- BEATOCK.	Dumfries - Craighielands (Junction with A 74) ..	A 701
DUMFRIES- KILMARNOCK.	Dumfries - Thornhill - Cumnock (Southern junction with A 70).	A 76
	Cumnock (Southern junction with A 76) - Cumnock (Northern junction with A 76).	A 70
	Cumnock (Northern junction with A 70) - Hurlford.	A 76
	Hurlford - Kilmarnock .. .. .	A 71

Name of trunk road	General description of route	Ministry of War Transport classification number
WEST OF BIGGAR— EDINBURGH.	West of Symington Station (Junction with A 73) — North-east of Biggar (Junction with A 702). North-east of Biggar (Junction with A 72) — West Linton — Edinburgh.	A 72 A 702
ABINGTON— LANARK— AIRDRIE— CUMBERNAULD.	Abington (Junction with A 74) — Hyndfordbridge-end (Southern junction with A 70). Hyndfordbridge-end (Southern junction with A 73) — Hyndfordbridge-end (Northern junction with A 73). Hyndfordbridge-end (Northern junction with A 70) — Lanark — Carluke — Newmains (Southern junction with A 71). Newmains (Southern junction with A 73) — Newmains (Northern junction with A 73). Newmains (Northern junction with A 71) — Airdrie — Cumbernauld.	A 73 A 70 A 73 A 71 A 73
GLASGOW— GREENOCK— MONKTON.	Glasgow — Port Glasgow — Greenock — Gourrock Gourrock — Largs — Ardrossan — Irvine — Monkton	A 8 A 78
DENNYLOAN— HEAD— KINCARDINE— KIRKCALDY— ST. ANDREWS.	Dennyloanhead (Southern junction with A 80) — West of Bonnybridge (Junction with B 817). West of Bonnybridge (Junction with A 803) — Dunipace Bridge (Western junction with A 883). Dunipace Bridge (Western junction with B 817) — Dunipace Bridge (Eastern junction with B 817). Dunipace Bridge (Eastern junction with A 883) — Larbert (Junction with A 9). North of Larbert (Junction with A 9) — Bellsdyke (Southern junction with A 905). Bellsdyke (Southern junction with A 977) — Bellsdyke (Northern junction with A 977). Bellsdyke (Northern junction with A 905) — Kincardine-on-Forth Bridge — Kincardine. Kincardine — Torryburn — Broomhall — Eastlodge Broomhall, Eastlodge — Inverkeithing (Junction with A 90). Inverkeithing (Junction with A 906) — Inverkeithing (Junction with A 92). Inverkeithing (Junction with A 90) — Aberdour — Burntisland — Kirkcaldy. Kirkcaldy — Windygates — Upper Largo . . . Upper Largo — Balchrystie . . . Balchrystie — White Stone Corner (Junction with unclassified road to Newton of Balcormo). White Stone Corner (Junction with B 942) — Newton of Balcormo — Ovenstone — Spalefield — Ribbonfield — Chance Inn (Junction with A 918). Chance Inn (Junction with unclassified road from Newton of Balcormo) — St. Andrews. St. Andrews— Abbey Street — South Street (part) — Deans Court — North Street (Northern junction with A 91).	A 803 B 817 A 883 B 817 A 977 A 905 A 977 A 985 A 906 A 90 A 92 A 915 A 917 B 942 Unclassified A 918 A 918 A 90
INVERKEITHING— PERTH.	Inverkeithing (Junction with A 906) — Cowdenbeath — Kinross — Milnathort — Perth.	A 90

Name of trunk road	General description of route	Ministry of War Transport classification number
STIRLING-CUPAR-ST. ANDREWS.	Stirling - East of Stirling (Junction with B 907) East of Stirling (Junction with A 907) - East of Airthrey Castle. East of Airthrey Castle - Tillicoultry - Dollar - Milnathort (Junction with A 90). Arlary (Junction with A 90) - Auchtermuchty - Cupar - St. Andrews (Northern junction with A 918).	A 907 B 907  A 91 A 91
STIRLING-CALLANDER-CRIANLARICH.	Stirling - Doune - Callander - Lochearnhead .. Lochearnhead - Criannlarich .. .. .	A 84 A 85
TARBET-INVERARY-LOCHGILPHEAD-OBAN.	Tarbet - Arrochar - Inverary - Lochgilphead (Junction with A 817). Lochgilphead (Junction with A 83) - Lochgilphead (Junction with A 816). Lochgilphead (Junction with A 817) - Kilmartin - Kilmelfort - Oban.	A 83 A 817 A 816
CONNEL-GLENCOE.	North Connel (Junction with road to Connel Bridge North of Lochnell Arms Hotel) - Portnacroish - Kentallen - Ballachulish - Carnach.	A 828
FORT WILLIAM-MALLAIG.	Lochy Bridge - Glenfinnan - Arisaig - Mallaig ..	A 830
INVERGARRY-KYLE OF LOCHALSH.	Invergarry - Tomdoun - Cluanie - Dornie - Kyle of Lochalsh - Kyle of Lochalsh slipway.	A 87
ABERDEEN-HUNTLY-FOCHABERS.	Aberdeen - Inverurie - Huntly - Keith - Fochabers (Junction with A 98).	A 96
DINGWALL-ULLAPOOL.	Dingwall - Contin .. .. . Contin - Gorstan .. .. . Gorstan - Braemore - Ullapool (Junction with A 893).	A 834 A 832 A 835

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## PART II

*Roads in County Boroughs and Large Burghs*

County Borough or large burgh and name of trunk road	General description of route	Ministry of War Transport classification number
COUNTY BOROUGH OF BLACKBURN.		
LEEDS-HALIFAX-BURNLEY-BLACKBURN-EAST OF PRESTON.	Borough boundary (east) - Whitebirk Road (Junction with A 6119). Accrington Road (Junction with A 679) - Borough boundary (North of Leeds - Liverpool Canal). Borough boundary (South of L.M.S. Railway, Great Harwood Loop) - Borough boundary (West of Beardwood).	A 679 A 6119 A 6119

County Borough or large burgh and name of trunk road	General description of route	Ministry of War Transport classification number
<u>COUNTY BOROUGH OF BOLTON.</u> LONDON- CARLISLE- GLASGOW- INVERNESS.	Borough boundary (North-west of Greenheys) - Borough boundary at Hulton Lane Ends.	A 6
<u>COUNTY BOROUGH OF BOOTLE.</u> BOOTLE-NORTH OF AINTREE.	Dunnings Bridge Road— Borough boundary (West of Boundary Road) - Borough boundary (East of Boundary Road).	A 567
<u>COUNTY BOROUGH OF BRADFORD.</u> LEEDS-HALIFAX- BURNLEY- BLACKBURN- EAST OF PRESTON.	City boundary (South of Wyke) - City boundary (West of Lower Wyke).	A 58
<u>COUNTY BOROUGH OF BURNLEY.</u> LEEDS-HALIFAX- BURNLEY- BLACKBURN- EAST OF PRESTON.	Borough boundary (South of Healey Heights) - Accrington Road (Junction with A 679). Rosendale Road (Junction with A 646) - Borough boundary (East of Hapton).	A 646 A 679
<u>CITY OF COVENTRY.</u> LONDON- HOLYHEAD.	City boundary of Willenhall - City boundary (West of Allesley).	A 45
BATH- CHELTENHAM- EVESHAM- COVENTRY- LEICESTER- LINCOLN.	City boundary at Gibbet Hill - Burnt Post (Junction with A 45).	A 46
<u>COUNTY BOROUGH OF DERBY.</u> LONDON- CARLISLE- GLASGOW- INVERNESS.	Borough boundary (South-east of Alvaston) - Darley Abbey (Junction with A 6). Darley Abbey (Junction with A 5111) - Borough boundary at Darley Abbey.	A 5111 A 6
EXETER-LEEDS	Borough boundary at Littleover - Warwick Avenue (Junction with A 5111).	A 38
NOTTINGHAM- DERBY- STOKE-ON- TRENT.	Borough boundary (South of Spondon Park) - Borough boundary (North-east of Alvaston). Manor Road (Junction with A 5111) - Borough boundary (North-east of Mickleover).	A 5111 A 516



County Borough or large burgh and name of trunk road	General description of route	Ministry of War Transport classification number
COUNTY BOROUGH OF DERBY— <i>cont.</i> DERBY— MACCLESFIELD— SOUTH OF STOCKPORT.	Markeaton Park (Junction with A 5111) – Borough boundary (at Mackworth).	A 52
COUNTY BOROUGH OF DUDLEY. EAST OF BIRMINGHAM— BIRKENHEAD.	All those sections within the borough .. ..	A 4123
COUNTY BOROUGH OF EAST HAM. LONDON— TILBURY.	Borough boundary (west) – Borough boundary (east).	A 13
CITY OF GLOUCESTER. LONDON— FISHGUARD.	City boundary (east) – City boundary (west) (excluding spur to A 417).	A 40
HUNGERFORD— GLOUCESTER— ROSS— HEREFORD.	City boundary (east) – Cole Bridge (Junction with A 40) (excluding Barnwood Road spur to A 40).	A 417
COUNTY BOROUGH OF IPSWICH. LONDON— GREAT YARMOUTH.	Borough boundary (south-west) – Borough boundary (east).	A 12
IPSWICH— NEWMARKET— CAMBRIDGE— ST. NEOTS— BEDFORD— NORTHAMPTON— WEEDON.	Chevallier Street (Junction with A 12) – County borough boundary at Whitton.	A 45
CITY OF LEEDS. LIVERPOOL— PRESTON—LEEDS.	City boundary (north) – Ring Road at Weetwood Grange (Junction with A 6120).	A 660
LIVERPOOL— LEEDS—HULL.	Whitkirk Lane End (Junction with A 6120) – City boundary (East of Swillington Mill).	A 63
LEEDS RING ROAD.	Weetwood Grange (Junction with A 660) – Mill Green (Junction with A 64). South of Seacroft (Junction with A 64) – Whitkirk Lane End (Junction with A 63).	A 6120 A 6120
LEEDS—YORK— SCARBOROUGH.	South of Seacroft (Junction with A 6120) – City boundary at Mill Green.	A 64
LEEDS— WETHERBY.	Ring Road (Junction with A 6120) – City boundary (South of Red Hall).	A 58

County Borough or large burgh and name of trunk road	General description of route	Ministry of War Transport classification number
<u>CITY OF LIVERPOOL.</u> LIVERPOOL— LEEDS—HULL.	Queens Drive (Junction with A 5058) – Walton Hall Avenue – City boundary at Croxteth Brook.	A 580
<u>CITY OF NORWICH.</u> LONDON— NORWICH.  BIRMINGHAM— GREAT YARMOUTH.	City boundary at Cringleford Bridge – Mile End Road (Junction with A 1074).  City boundary (West) – Woodlands (Junction with A 1074). Woodlands (Junction with A 47) – Trowse Millgate (Junction with A 146). Trowse Millgate (Junction with A 1074) – Carrow Bridge (Junction with A 1074). Carrow Bridge (Junction with A 146) – East of Cotman Road (Junction with A 47). East of Cotman Road (Junction with A 1074) – City boundary (east).	A 11  A 47 A 1074 A 146 A 1074 A 47
<u>CITY OF NOTTINGHAM.</u> NORTH-EAST OF BIRMINGHAM— NOTTINGHAM.  NOTTINGHAM— DERBY—STOKE- ON-TRENT.  NOTTINGHAM RING ROAD.	City boundary (North-east of Beeston) – Clifton Boulevard (Junction with A 614).  Clifton Boulevard (Junction with A 614) – City boundary at Tottlebrook Bridge.  Beeston Road (Junction with A 453) – Radford Bridge (Junction with A 609). Radford Bridge (Western junction with A 614) – Radford Bridge (Eastern junction with A 614). Radford Bridge (Junction with A 609) – City boundary (Junction with A 60).	A 458  A 52  A 614 A 609 A 614
<u>CITY OF OXFORD.</u> LONDON— FISHGUARD.  WINCHESTER— PRESTON.  OXFORD— NORTHAMPTON— STAMFORD— MARKET- DEEPING.	City boundary (East of Headington) – City boundary (North-west of Headington). City boundary (West of River Cherwell) – City boundary (North of Wolvercot).  Upper Wolvercot (Junction with A 40) – City boundary (north).  South of Wolvercot Cemetery (Junction with A 40) – City boundary (north).	A 40 A 40  A 34  A 423

County Borough or large burgh and name of trunk road	General description of route	Ministry of War Transport classification number
COUNTY BOROUGH OF ST. HELENS. LIVERPOOL- LEEDS-HULL.	Borough boundary (South-east of Moss Bank Station) - Borough boundary (East of Carr Mill Viaduct).	A 580
CITY OF STOKE- ON-TRENT. WINCHESTER- PRESTON.	City boundary (at Strongford Bridge) - City boundary (at Newcastle-under-Lyme).	A 34
COUNTY BOROUGH OF WEST HAM. LONDON- TILBURY.	Prince Regents Lane (Junction with A 112) - Borough Boundary (east).	A 13
BURGH OF DUNFERMLINE. DENNYLOAN- HEAD- KINCARDINE- KIRKCALDY- ST. ANDREWS.	City boundary (west) at Peattiesmuir - City boundary (east) at Rosyth.	A 906
CITY OF DUNDEE. PERTH- ABERDEEN- INVERNESS.	City boundary (west) - Strips of Craigie (Junction with A 92). Strips of Craigie (Junction with A 972) - City boundary (east).	A 972 A 92
BURGH OF CLYDEBANK. LONDON- CARLISLE- GLASGOW- INVERNESS.	Burgh boundary (east) - Burgh boundary (west).	A 82
BURGH OF DUMBARTON. LONDON- CARLISLE- GLASGOW- INVERNESS.	Burgh boundary (south-east) - Burgh boundary (north).	A 82

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Classified roads are roads classified by the Minister of Transport under the Ministry of Transport Act, 1919, s. 17 (2) (3 Halsbury's Statutes 435).

## Section 2.

## SECOND SCHEDULE

## PROCEDURE FOR MAKING ORDERS

1. Before making the order the Minister shall publish in at least one local newspaper circulating in the area in which any road to which the order relates is situated and in the London or Edinburgh Gazette, as the case may be, a notice—

(a) stating the general effect of the order ;

- (b) specifying a place in the said area where a copy of the draft order and of any relevant map or plan may be inspected by any person free of charge at all reasonable hours during a period of three months from the date of the publication of the notice ; and
- (c) stating that, within the said period, any person may by notice to the Minister object to the making of the order.

2. Not later than the date on which the said notice is published as aforesaid, the Minister shall serve a copy thereof (together with a copy of the draft order and of any relevant map or plan) on the council of every county, county borough or metropolitan borough in which any road to which the order relates is situated, and, in the case of a road situated in any other borough or in an urban district, on the council of that borough or urban district.

3. Where the order provides for the stopping up of a junction between a trunk road and any other road, the Minister shall, not later than the date on which the notice is published as aforesaid, cause a copy thereof to be displayed in a prominent position at the junction which is proposed to be so stopped up.

4. If before the expiration of the said period of three months an objection is received by the Minister from any council on whom a notice is required to be served under this Schedule, or from any other person appearing to him to be affected by the order, and the objection is not withdrawn, the Minister shall cause a local inquiry to be held provided that except where the objection is made by any such council as aforesaid, the Minister may dispense with such an inquiry if he is satisfied that in the special circumstances of the case the holding of such an inquiry is unnecessary.

5. After considering any objections to the order which are not withdrawn, and, where a local inquiry is held, the report of the person who held the inquiry, the Minister may make the order either without modification or subject to such modifications as he thinks fit. [345]

"The Minister."—This means the Minister of Transport (see s. 11 (1), *ante*, and note thereto).

The provisions of this Schedule are applicable to orders made by the Minister under ss. 1 and 4, *ante*. Paras. 2 and 4, however, are modified by s. 6 (3), *ante*, in relation to an order under s. 1 for the construction of a bridge or tunnel over or under navigable waters.

The first local inquiry under the above procedure was held on September 24-25, 1946, in connection with the draft order for the construction of a bridge over the Severn.

## Section 12

## THIRD SCHEDULE

### MINOR AND CONSEQUENTIAL AMENDMENTS OF THE PRINCIPAL ACT

Provision amended	Amendment
Section 3 .. ..	In subsection (5), after the word " county " in the second place where that word occurs, there shall be inserted the words " or county borough ".
Section 4 .. ..	In subsection (1), after the words " county council " there shall be inserted the words " or the county borough council, as the case may be ".
	In subsection (6), after the word " Minister," in the first place where that word occurs, there shall be inserted the words " to the exclusion of the authority ", and for the words " by the authority and not by the Minister " there shall be substituted the words " by the Minister as well as by the authority ".
Section 5 .. ..	In subsection (1), after the word " county " there shall be inserted the words " or county borough " ; after the words " trunk road " there shall be inserted the words " or any land acquired by him under this Act which does not form part of a trunk road " ; and for the words from " Provided that " to the end of the subsection there shall be substituted the words " Provided that such functions shall not be delegated to any such

## Provision amended

## Amendment

Section 5—*cont.*

council with respect to any road or land outside their area except with the consent of the council of the county, county borough or metropolitan borough in which the road or land is situated ”.

In subsection (2), after the word “ road,” wherever that word occurs, there shall be inserted the words “ or land ”.

## Section 6

.. .. In subsection (1), after the word “ county ” there shall be inserted the words “ or county borough ”; for the words “ such a road ” there shall be substituted the words “ any such road or any land acquired by the Minister under this Act which does not form part of such a road ”; the words “ being a road with respect to which functions may be delegated to that council under the last foregoing section ” shall be omitted ; and for the words “ that section ” there shall be substituted the words “ the last foregoing section ”.

In subsections (3) and (8), after the word “ county ” in both places where that word occurs, there shall be inserted the words “ or county borough ”.

## Section 9

.. .. In subsection (3), after the word “ borough,” in the first place where that word occurs, there shall be inserted the words “ including a county borough ”.

## Section 12

.. .. In subsection (2) for paragraph (b) the following paragraph shall be substituted :—

“ (b) For any reference to a county road or a county bridge there shall be substituted a reference to a road or bridge for the maintenance and management of which a county council or the town council of a large burgh, as defined in the Local Government (Scotland) Act, 1929, is responsible ; ”

and in paragraph (d) there shall be added at the end the words “ or, in any case concerning a local authority whose financial year ends on a day other than the fifteenth day of May, as references to that other day and to the next day thereafter ”.

In subsection (10) after the word “ county ” where that word first occurs there shall be inserted the words “ or of any large burgh as defined in the Local Government (Scotland) Act, 1929 ” and for all the words after “ dealing with ” there shall be substituted the words “ (a) a trunk road within the county or large burgh ; or (b) a trunk road within any other county or large burgh if the council thereof consent. For the purposes of this subsection a trunk road within a small burgh as defined in the Local Government (Scotland) Act, 1929, shall be deemed to be within the county in which that burgh is situate, and any reference to a trunk road shall include a reference to land acquired by the Minister under this Act which does not form part of a trunk road.”

Subsection (14) shall be omitted.

In subsection (15), for the words “ subsection (2),” in the second place where those words occur, there shall be substituted the words “ subsection (3) ”.

## Section 13

.. .. In subsection (1), in the definition of “ borough,” after the words “ county borough ” there shall be inserted the words “ or a metropolitan borough ” ; in the definition of “ county ”, after the words “ administrative county ” there shall be inserted the words “ within the meaning

## Provision amended

## Amendments

Section 13—*cont.*

of the Local Government Act, 1933;" ; in the definition of "local authority," after the word "county" there shall be inserted the words "or county borough"; and in the definition of "road," for the words "bridge over which" there shall be substituted the words "bridge or tunnel over or through which".

## Fourth Schedule

.. In paragraph 6, in sub-paragraph (a) the words "the words 'or of preventing the erection of buildings detrimental to the view from the road' and " and in sub-paragraph (c) the words "subsection (2) and," shall be omitted. [346]

"*The principal Act.*"—This is the Trunk Roads Act, 1936 (see s. 11 (1), *ante*). For the Act, see 29 Halsbury's Statutes 183.

*Local Government Act, 1933.*—26 Halsbury's Statutes 295.

## Section 15

## FOURTH SCHEDULE

## MODIFICATIONS OF PRINCIPAL ACT AS RESPECTS LONDON

## Provision modified

## Modification

## Section 3

.. .. In subsection (1), for the words from "highway authorities" to "local authority" there shall be substituted the words "any local authority as highway authority".

In subsection (2), the words "shall not be exercisable by a county council in any borough or urban district but save as aforesaid" and the words "shall not be exercisable by a county council in any borough or urban district and" shall be omitted; for the words "Parts I and II" there shall be substituted the words "Part I"; and for the words "those Parts" there shall be substituted the words "that Part".

In subsection (4), for the words "county road", in both places where those words occur, there shall be substituted the words "road repairable by a local authority".

In subsection (5), for the words "county roads or roads chargeable to a county" there shall be substituted the words "roads repairable by a local authority".

"*The principal Act.*"—This is the Trunk Roads Act, 1936 (see s. 11 (1), *ante*). For s. 3 thereof, see 29 Halsbury's Statutes 187.

## Section 4

.. .. For subsection (1) there shall be substituted the following subsection :—

"(1) Notwithstanding anything in section twenty of the Restriction of Ribbon Development Act, 1935 (hereinafter in this section referred to as 'the Act of 1935'), the provisions of that Act shall apply in relation to a road in the County of London so long as that road is a trunk road, and the functions of the highway authority under sections one and two of that Act shall be exercisable, in relation to any such road, by the London County Council, and in this section the expression 'the authority' means the authority by whom the said functions are exercisable."

For s. 4, see 29 Halsbury's Statutes 189.  
*Restriction of Ribbon Development Act, 1935, ss. 1, 2 and 20.*—28 Halsbury's Statutes 81, 82, 278.



## Provision modified

## Modification

Section 5 . . . . For subsection (1) there shall be substituted the following subsection :—

“(1) The Minister may by agreement with any local authority delegate to that authority all or any of his functions (including functions under the enactments mentioned in Part I of the Third Schedule to this Act) with respect to the maintenance, repair and improvement of, and other dealing with, any trunk road or any land acquired under this Act which does not form part of a trunk road :

Provided that such functions shall not be delegated to the council of a metropolitan borough with respect to any road or land in any other metropolitan borough except with the consent of the council of the metropolitan borough in which the road or land is situated and shall not be delegated to any local authority with respect to a road or land outside the County of London except with the consent of the council of the county or county borough in which the road or land is situated.”

For s. 5, see 29 Halsbury's Statutes 191.

Section 6 . . . . In subsection (1), for the words from “the council” to “urban district” there shall be substituted the words “any local authority”.

In paragraph (a) of the proviso to subsection (3), for the words from “the council” to the end of the paragraph there shall be substituted the words “the London County Council and the council of the metropolitan borough in which the road across the trunk road is situated”; and in paragraph (b) of the said proviso, for the words from “council in whom” to the end of the paragraph there shall be substituted the words “London County Council or the council of the metropolitan borough in which the connection or approach is situated, or partly in one of those councils and partly in the other, according as the Minister, after consultation with those councils, may direct, and the council in whom the connection or approach or any part thereof is so vested shall be responsible for the maintenance and repair thereof.”

For subsection (6) there shall be substituted the following subsection :—

“(6) Subsection (2) of section one hundred and thirteen of the Public Health (London) Act, 1936 (which relates to the vesting of the subsoil of streets for the purpose of the exercise by sanitary authorities of their powers under that subsection subject to an exception respecting bridges of the county council), shall have effect, in relation to trunk roads, as if references therein to the county council included references to the Minister”.

Subsection (7) shall be omitted.

In subsection (8), for the words from the beginning to “may”, in the first place where that word occurs, there shall be substituted the words “The London County Council and the council of any metropolitan borough may”, and the words from “and the council of any borough” to the end of the subsection shall be omitted.

For s. 6, see 29 Halsbury's Statutes 193.

*Public Health (London) Act, 1936, s. 113 (2).*—30 Halsbury's Statutes 505.



## Provision modified

## Modification

Section 9 .. .. For subsections (2) and (3) there shall be substituted the following subsections :—

“(2) Subsection (3) of section sixty of the London Government Act, 1939 (which provides that no liability exceeding fifty pounds shall be incurred by a local authority except on a resolution of the authority passed on an estimate submitted by the finance committee), shall not apply to any liability incurred by a local authority as agents for the Minister under this Act.

(3) Subsections (2) and (3) of section one hundred and nineteen of the said Act (which regulates payments out of the county fund) and subsections (2) and (3) of section one hundred and twenty-two of that Act (which regulates payments out of the general rate fund of a metropolitan borough) shall not apply to any payments made for the purpose of meeting liabilities incurred by the London County Council or by a metropolitan borough council as agents for the Minister under this Act.”

For s. 9, see 29 Halsbury's Statutes 196.

*London Government Act, 1939, ss. 60 (3), 119 (2), (3), 122 (2), (3).*—32 Halsbury's Statutes 290, 315, 316.

Section 10 .. .. In subsection (1), for the reference to subsections (2), (3), (4) and (5) of section two hundred and ninety of the Local Government Act, 1933, there shall be substituted a reference to subsections (2), (3), (4) and (5) of section one hundred and eighty-nine of the London Government Act, 1939.

For s. 10, see 29 Halsbury's Statutes 196.

*Local Government Act, 1933, s. 290.*—26 Halsbury's Statutes 459.

*London Government Act, 1939, s. 189.*—32 Halsbury's Statutes 344.

Section 13 .. .. In the definition of “county”, after the words “administrative county” there shall be added the words “including the County of London”; after that definition there shall be inserted the following definition :—

“‘County of London’ means the Administrative County of London as defined in subsection (1) of section one of the London Government Act, 1939, exclusive of the City of London”;

and for the definition of “local authority” there shall be substituted the following definition :—

“‘Local authority’ means the London County Council or a metropolitan borough council”.

For s. 13, see 29 Halsbury's Statutes 200.

*London Government Act, 1939, s. 1 (1).*—32 Halsbury's Statutes 267.

Schedule II .. .. The following enactments shall be included in the Schedule, subject to the modifications respectively specified in relation thereto, that is to say :—

The Metropolis Management Amendment Act, 1862 (25 & 26 Vict. c. 102)

Section 72 .. The words “with the previous consent in writing of the Metropolitan Board of Works” shall be omitted.

Provision modified  
Schedule II—*cont.*

## Modification

Section 82 .. For the words from "the surveyor" to the end of the section there shall be substituted the words "the Minister".

For Sched. II, see 29 Halsbury's Statutes 208.

*Metropolis Management Amendment Act*, 1862, ss. 72 and 82.—11 Halsbury's Statutes 984, 987.

Schedule III .. .. In Part I, the references to the Public Health Act, 1875, the Local Government Act, 1894, the Public Health Acts Amendment Act, 1907, and the Public Health Act, 1925, shall be omitted, and the following enactments shall be included therein, subject to the modifications, if any, respectively specified in relation thereto, that is to say :—

The Metropolis Management Act, 1855  
(18 & 19 Vict. c. 120)

Sections 102 and  
121

Section 122 .. The words "the clerk or surveyor of" shall be omitted.

Section 140 .. The word "paving" shall be omitted.

The Metropolis Management Amendment Act, 1862  
(25 & 26 Vict. c. 102)

Section 86 .. The words "paving and", the words "paving or making up or", and the words "and the repair and maintenance of such roadway or footpaths" shall be omitted.

The Metropolis Management Amendment Act, 1890  
(53 & 54 Vict. c. 66)

Section 6 .. The words from "it shall not be lawful to form" to "expressed in writing and", the words from "If the vestry or district board shall refuse their approval" to "person appealing", the words "or on appeal by the Council" and the words "or on appeal of the Council" shall be omitted.

The Public Health (London) Act, 1936  
(26 Geo. 5, and 1 Edw. 8, c. 50)  
Subsection (4) of section 86.

For Sched. III, Pt. I, see 29 Halsbury's Statutes 210.  
*Metropolis Management Act*, 1855, ss. 102, 121, 122, 140.—11 Halsbury's Statutes 909, 915, 916, 920.

*Metropolis Management Amendment Act*, 1862, s. 86.—*Ibid.* 988.

*Metropolis Management Amendment Act*, 1890, s. 6.—*Ibid.* 1016.

*Public Health (London) Act*, 1936, s. 86 (4).—30 Halsbury's Statutes 492.

For Parts II and III there shall be substituted the following Parts :—

"PART II

FUNCTIONS OF LOCAL AUTHORITIES IN LONDON  
EXERCISABLE IN RELATION TO TRUNK ROADS BY THE  
MINISTER AS WELL AS BY OTHER AUTHORITIES.

The Metropolis Management Act, 1855 (18 & 19 Vict.  
c. 120)—

Section 119  
Section 120

Provision modified  
Schedule III—*cont.*

Modification

The Barbed Wire Act, 1893 (56 & 57 Vict. c. 32)—  
Section 3

PART III

FUNCTIONS OF LOCAL AUTHORITIES IN LONDON EXERCISABLE IN RELATION TO TRUNK ROADS BY THE MINISTER AND BY OTHER AUTHORITIES WITH THE CONSENT OF THE MINISTER.

The Metropolis Management Act, 1855 (18 & 19 Vict. c. 120)—

Section 108

The Public Health (London) Act, 1936 (26 Geo. 5 & 1 Edw. 8, c. 50)—

Section 25

Section 30

Section 55 "

For Sched. III, Pts. II and III, see 29 Halsbury's Statutes 212, 213.

*Metropolis Management Act*, 1855, ss. 108, 119, 120.—11 Halsbury's Statutes 911, 914, 915.

*Barbed Wire Act*, 1893, s. 3.—9 Halsbury's Statutes 207.

*Public Health (London) Act*, 1936, ss. 25, 30 and 55.—30 Halsbury's Statutes 457, 460, 475.

Schedule IV . . . . For paragraph 6 there shall be substituted the following paragraphs :—

" 6. In subsection (1) of section thirteen for the words from ' and the provisions ' to ' under that Act ' there shall be substituted the words ' and the provisions of sections one hundred and two, one hundred and three, one hundred and four and one hundred and five of the London Government Act, 1939, and paragraph (a) of subsection (1) of section one hundred and fourteen of that Act, shall apply with respect to any such order in like manner as they apply to orders to be confirmed by the Minister of Health under that Act.'

6A. Sections thirteen to fifteen of the said Act shall, in their application to the acquisition of land by the Minister, have effect subject to the following modifications :—

(a) in section thirteen the expression ' improvement ' shall have the same meaning as in this Act and in subsection (1) of the said section the words ' by them and confirmed ' shall be omitted ;

(b) in sections one hundred and two, one hundred and three and one hundred and five of the London Government Act, 1939, as applied by the said section thirteen as modified by the last foregoing paragraph, for the references to a local authority there shall be substituted references to the Minister, for the references to an order made by a local authority and confirmed by the Minister there shall be substituted references to an order made by the Minister, for the references to the making of an order there shall be substituted references to the preparing of a draft order and for the references to the submitting of an order to, or the confirming of an order by, the Minister, there shall be substituted references to the making of an order by him ; and

(c) paragraphs (b) and (c) of subsection (3) of the said section thirteen and subsection (3) of section seven of the Bridges Act, 1929, as applied

Provision modified  
Schedule IV—*cont.*

Modification  
by subsection (2) of the said section fourteen shall not apply."

For Sched. IV, see 29 Halsbury's Statutes 214.  
*London Government Act, 1939.*—32 Halsbury's Statutes 259 *et seq.*  
*Bridges Act, 1929, s. 7 (3).*—9 Halsbury's Statutes 273.

Schedule V . . . . In paragraph 1, the words " and improvement lines " and subparagraphs (a) and (c) of paragraph 3, shall be omitted. [347]

For Sched. V, see 29 Halsbury's Statutes 216.

## ORDERS, CIRCULARS AND MEMORANDA

### THE WARWICKSHIRE (COUNTY ROADS CESSER) ORDER, 1946

*S. R. & O., 1946, No. 131*

*January 24, 1946*

Whereas an application has been made by the County Council of Warwickshire under section 16 of the Highways and Locomotives (Amendment) Act, 1878, as amended by section (4) of the Highways and Bridges Act, 1891 and sections 29 and 31 of, and paragraph 10 of the 10th schedule to, the Local Government Act, 1929, to the Minister of War Transport (hereinafter referred to as " The Minister "), as successor to the Local Government Board and the Minister of Transport in that behalf, for an Order declaring that the length of road specified in the Schedule hereto (hereinafter referred to as " the road ") shall cease to be a county road and shall become an ordinary highway :

And whereas the Minister, being of opinion that there was probable cause for such application has caused the road to be inspected, and is satisfied that it ought to cease to be a county road and become an ordinary highway :

Now, therefore, the Minister, in exercise of the powers conferred by the said section 16 as so amended and of all other powers enabling him in that behalf, hereby makes the following order :—

1. The road shall cease to be a county road and shall become an ordinary highway. [348]

2. The Interpretation Act, 1889, shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament. [349]

3. This Order may be cited as " The Warwickshire (County Roads Cesser) Order, 1946 ", and shall come into operation on the thirty-first day of January, 1946. [350]

\* \* \* \* \*

#### SCHEDULE

So much of Weddington Terrace, Nuneaton, in the County of Warwick, as lies between its junction with the Nuneaton—Caldecote Road (A.444) at a point 35 yards south of Hinckley Road and a point 125 yards south of the L.M.S. Railway Bridge. [351]

## THE TRUNK ROADS (DELEGATION OF POWERS) ORDER, 1946

*S. R. & O., 1946, No. 496*

*March 29, 1946*

Whereas by sub-section (4) of section 5 of the Trunk Roads Act, 1936, as extended by sub-section (2) of section 9 of the Trunk Roads Act, 1946, the

Minister of War Transport (hereinafter referred to as "the Minister") is empowered (after consultation with such Associations as appear to the Minister to represent the Councils to whom the functions are proposed to be assigned by the Order) to provide by Order that such of his functions with respect to the construction, maintenance, repair and improvement of, and other dealing with, any trunk road specified in the First Schedule to the last mentioned Act (hereinafter referred to as "the Act") as may be specified in the Order shall be exercised by such Councils and subject to such conditions as may be so specified.

And whereas the Minister has consulted with such associations as appear to him to represent the Councils specified in the First Schedule hereto (hereinafter referred to as "the Councils");

Now, therefore, the Minister in exercise of the powers conferred on him as aforesaid and of all other powers enabling him in that behalf hereby orders as follows :—

1. Each of the Councils shall in relation to any trunk road which, but for the Act, would at the date when this Order comes into force, be vested in that Council—

- (a) exercise such of the functions set out in the Second Schedule hereto as but for the Act it would have been empowered to exercise in relation to that road ;
- (b) execute or supervise the works set out in the Third Schedule hereto until the completion thereof or until the expiry of this Order, whichever shall first occur, unless otherwise directed by the Minister in any particular case. [352]

2. In the exercise of the functions referred to in paragraphs (a) and (b) of article 1 of this Order, the Councils shall act as agents for the Minister and in accordance with the conditions set out in the Fourth Schedule hereto :

Provided that where by delegation under section 35 of the Local Government Act, 1929, or by agreement with the council of a county, any such functions would but for the Act have been exercisable on the 1st day of April, 1946, by the council of a county district—

- (a) that council shall continue to exercise the said functions as agent for the county council, with such variations in the conditions of such delegation or agreement as the Minister may in default of agreement between the two councils determine to be necessary or equitable in consequence of the conditions imposed upon the county council by this Order ;
- (b) those functions shall cease to be exercisable by any such district council as from the 1st day of April, 1947, if by notice given before the 1st day of October, 1946, the county council terminates or the district council relinquishes the agency. [353]

3. This Order shall remain in force up to and including the 31st day of March, 1948. [354]

4. This Order shall in its application to Scotland have effect subject to the following modifications :—

(a) Article 2 shall have effect as if—

- (i) for any reference to the council of a county district there were substituted a reference to a town council, a district council, a joint committee of a town council and district council, or the county council of one of two counties forming a combined county ;
- (ii) a reference to section 10 or section 13 of the Local Government

(Scotland) Act, 1929, were substituted for the reference to section 35 of the Local Government Act, 1929 ;

(iii) for proviso (b) the following proviso were substituted—

“(b) nothing in this paragraph shall prevent the termination of any such delegation as aforesaid in terms of the agreement under which the functions were delegated.”

(b) The Second Schedule shall have effect as if in lieu of the sections of the Public Health Acts Amendment Act, 1907, and of the Public Health Acts, 1925 and 1936, therein specified there were specified sections 132, 141 and 142 of the Burgh Police (Scotland) Act, 1892, and section 17 of the Burgh Police (Scotland) Act, 1903.

(c) For the reference in condition (A) 8 (a) of the Fourth Schedule to six per cent. there shall be substituted a reference to seven per cent.

(d) For references to the 31st day of March, the 1st day of April, the 1st day of July, the 1st day of October and the 1st day of January wherever occurring in this Order there shall be substituted respectively references to the 15th day of May, the 16th day of May, the 16th day of August, the 16th day of November and the 16th day of February or, in the case of a local authority whose financial year ends on a day other than the 15th day of May, to that other day and to other corresponding days in the year. [355]

5. The Interpretation Act, 1889, shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament. [356]

6. This Order shall come into force on the 1st day of April, 1946, and may be cited as “The Trunk Roads (Delegation of Powers) Order, 1946”. [357]

\* \* \* \* \*

## SCHEDULES

### FIRST SCHEDULE

#### THE COUNCILS

In England and Wales.

1. County Councils.
2. County Borough Councils.
3. Borough Councils and Urban District Councils which on the 1st day of April, 1946, would, but for the Act, have been exercising the functions of maintenance and repair under section 32 of the Local Government Act, 1929, in respect of any road which becomes a trunk road.

In Scotland—

1. County Councils.
2. Town Councils of Large Burghs. [358]

### SECOND SCHEDULE

FUNCTIONS OF THE MINISTER REFERRED TO IN ARTICLE 1 (a) OF THIS ORDER

(A) MAINTENANCE, REPAIR AND IMPROVEMENT OF TRUNK ROADS.

1. Construction of new and strengthening of existing foundations.
2. Resurfacing of carriageways.
3. Surface dressing of carriageways.
4. Patching, gritting, and siding.
5. Cleansing, watering and snow clearing necessary for the maintenance of the road and the safety of traffic thereon.
6. Provision and maintenance of kerbing and channelling.
7. Provision and maintenance of surface water drainage, grips and gullies.

8. Provision and maintenance of footpaths, cycle tracks and roundabouts within the limits of the Trunk Road.

9. Provision, planting and care of trees and shrubs, laying out, cutting and maintenance of grass.

10. Provision and maintenance of fences and maintenance of retaining or sea walls necessary for the support or protection of the highway.

11. Provision and maintenance of refuges, guard posts, guard rails and mile-stones (including illumination of roundabouts and refuges).

12. Provision, maintenance and operation when necessary of traffic signs (including markings on the road) within the meaning of the Road Traffic Act, 1930, and all necessary illumination thereof except where such illumination is in substitution for street lighting.

13. Maintenance and lighting of subways and footbridges.

14. Maintenance of bridges and culverts, including in the case of opening bridges their operation and the maintenance and repair of plant and provision of power.

15. The provision and maintenance of superelevation within the limits of the Trunk Road.

#### (B) OTHER DEALING WITH TRUNK ROADS.

1. Functions under section 18, 20 and 29 of the Public Health Acts Amendment Act, 1907, sections 25 and 27 of the Public Health Act, 1925, section 27 of the Road Traffic Act, 1930, and section 77 of the Public Health Act, 1936, as modified by the Trunk Roads Acts, 1936 and 1946.

2. Functions of the Minister as highway authority under the Telegraph Acts, 1868 to 1925.

3. Functions of the Minister as highway authority in relation to statutory undertakers or transferred to him by virtue of sub-section (4) of section 3 of the Trunk Roads Act, 1936, as extended by the Act, including any functions which he may hereafter acquire by virtue of any provision inserted for the protection of the Minister in any Act, including any private or local Act.

4. Subject to the approval of the Minister, functions under section 4 and section 5 of the Roads Improvement Act, 1925, and section 38 of the Public Health Act, 1925, as modified by the Trunk Roads Act, 1936.

5. Subject to the approval of or at the request of the Minister, the removal and prevention of unauthorised encroachments on the highway, including the service of notices under section 56 of the Road Traffic Act, 1930, as modified by the Trunk Roads Act, 1936.

6. The taking from time to time at the request of the Minister of such traffic census as he may require.

7. The receipt on behalf of the Minister of notices under any Order made by him under section 3 (1) (b) of the Road Traffic Act, 1930 (authorising the use on roads of special motor vehicles or trailers, etc.), and the ascertainment of any damage to the road caused by the movement of vehicles under such Order.

8. Such other matters relating to the generality of the functions described above as may be agreed in writing between the Minister and the Council. [359]

### THIRD SCHEDULE

#### WORKS REFERRED TO IN ARTICLE 1 (b) OF THIS ORDER

Any works of construction or improvement (other than those specified in the Second Schedule hereto) for which prior to the 1st day of April, 1946, the Minister has approved plans and estimates and has made or has indicated his intention to make a grant from the Road Fund towards the cost of the works. [360]

### FOURTH SCHEDULE

#### CONDITIONS

#### (A) CONDITIONS APPLICABLE TO THE EXERCISE OF FUNCTIONS UNDER ARTICLE 1 (a) OF THIS ORDER.

1. On or before the 31st day of March, 1946 and thereafter on or before the 15th day of December, 1946, and subsequently on or before the 15th day of December



in each year, the Council shall submit for the approval of the Minister on a form supplied by him, a statement of the works proposed to be undertaken for the financial year beginning the following 1st day of April and an estimate of the expenditure to be incurred thereon (excluding administrative expenses of the Council), and the Minister may approve such statement and estimate with or without modification.

2. When any work is carried out by the Council—

- (a) the wages to be paid, the hours of work, and conditions of service shall correspond with those appertaining to the Council's employees of a similar grade and engaged upon similar work ;
- (b) materials, hired plant and hired haulage shall be charged at a price equivalent to the cost of such materials, plant and haulage to the Council ;
- (c) charges for the use of plant and haulage vehicles belonging to the Council shall be calculated in accordance with the scale of charges for Road Fund grants currently in operation.

3. The Minister may, if he thinks fit, and with the concurrence of the Council concerned, carry out any of the works by himself or by other agents.

4. The Council shall carry out the works in accordance with the approved statement and shall not alter or vary any work or materials described therein or exceed the approved estimate of expenditure without the written consent of the Minister except in an emergency, in which case the Council shall report the facts to the Minister as soon as practicable.

5. The Council shall comply with any general or particular directions the Minister may give from time to time as to the materials to be used, acceptance of tenders, the terms of contracts to be entered into and the manner in which works are to be carried out.

6. The Council shall comply with any general or particular directions the Minister may give from time to time as to the superintendence of, authorisation of, or consent to the execution of works and the reinstatement of the road by any other authority, body or person : provided that no Council shall authorise the erection of a bridge over, or permanent obstruction on a trunk road without the written consent of the Minister.

7. The Council shall, at the end of each financial year, supply to the Minister in such form as he may require an account of the income and expenditure in respect of their exercise of functions under article 1 of this Order for that year, which shall be certified by the surveyor and by the accounting officer designated for that purpose by the Council.

8.—(a) There shall be added to the expenditure shown in the account so certified a sum equal to six per cent. of that expenditure to cover the administrative expenses of the Council and no other charge in respect of those administrative expenses shall be included in the account ;

(b) There shall be added to the income shown in the said account a sum equal to the advances made by the Minister to the Council under condition (C) 3 of this Schedule ;

(c) Any resulting balance of expenditure over income or of income over expenditure shall be payable by the Minister, or the Council, as the case may be, to the other : provided always that after the accounts of the Council for that year have been audited the certified account and the additions thereto and any payment made under this sub-paragraph shall be adjusted between the parties in accordance with the accounts so audited.

(B) CONDITIONS APPLICABLE TO THE EXERCISE OF FUNCTIONS UNDER ARTICLE 1 (b) OF THIS ORDER.

1. The Council shall carry out the works in accordance with the plans and estimates approved by the Minister subject to any modifications to which he may have assented before the 1st day of April, 1946, and the plans and estimates and the terms of any contracts shall not be varied in any respect without the written consent of the Minister.

2. When at the 1st day of April, 1946, the works or any of them had not been effectively commenced, the Council shall comply with any directions of the Minister as to the manner in which they are to be carried out and with any directions as to the acceptance of tenders and the terms of contracts to be entered into.

3. On completion of each work described in the Third Schedule hereto the Council shall submit to the Minister an account of the income and expenditure relating to the works executed under this Order in such form as he may require, which shall be certified by the surveyor and by the accounting officer designated for that purpose by the Council.

4.—(a) There shall be added to the expenditure shown in the account so certified a sum equal to three per cent. of the expenditure (except the expenses of acquisition of land) to cover the administrative expenses of the Council and no other charge in respect of those administrative expenses shall be included in the account.

(b) There shall be added to the income shown in the said account a sum equal to the advances made by the Minister to the Council under Condition (C) 3 of this Schedule ;

(c) Any resulting balance of expenditure over income or of income over expenditure shall be payable by the Minister or the Council as the case may be to the other : provided always that after the accounts of the Council have been audited the certified account and the additions thereto and any payment made under this sub-paragraph shall be adjusted between the parties in accordance with the accounts so audited.

(C) CONDITIONS APPLICABLE TO THE EXERCISE OF FUNCTIONS UNDER ARTICLE 1 (a) AND (b) OF THIS ORDER.

1. The works shall be carried out and completed to the satisfaction of the Minister.

2. The Council shall give credit for any amounts received by it in respect of trunk roads from any source other than the Minister.

3. The Minister shall make advances to the Council in accordance with the following conditions :—

(i) The Council shall, as soon as may be after the 1st day of April, the 1st day of July, the 1st day of October, and the 1st day of January in each year, submit to the Minister in forms approved by him, statements in relation to any works described in the Second and Third Schedules hereto on account of which advances are claimed, showing—

(a) the approximate expenditure, if any, on the said works to the end of the preceding quarter ;

(b) the estimated expenditure on the said works for the succeeding quarter ;

(c) the appropriate percentage charges for administrative expenses ;

(d) the amount already advanced by the Minister to the end of the preceding quarter ;

(e) the amount received by the Council in respect of trunk roads from any source other than the Minister to the end of the preceding quarter ;

(f) the amount required for the succeeding quarter ;

(ii) The Minister shall, as soon as may be after the receipt of the statements referred to above, pay to the Council such sum as may in his opinion be necessary to meet the expenditure of the Council during the succeeding quarter : provided that the Council may submit, if necessary, a supplementary estimate of expenditure, to be incurred during a quarter, and the Minister may, if he approves the supplementary estimate, make a supplementary advance.

4. The accounts, records, documents and vouchers in relation to works carried out under this Order shall be open to inspection by the Minister at all reasonable times.

5. All sums payable to contractors under any contract transferred to the Minister by the Act in respect of works which are delegated to Councils by this

Order shall be paid by the Council direct to the contractors as and when they become due.

6. The Council shall as agents for the Minister do all things which the Minister is entitled to do under the terms of any contract transferred to him by the Act subject to the terms of this Order.

7. The Council shall in executing works and in other dealings under this Order take all reasonable precautions for the protection of public and private interests as if the Council were the highway authority.

In this Schedule the expression "administrative expenses" includes—

- (a) salaries, wages, allowances (including travelling and subsistence allowances), insurance and superannuation charges in respect of supervisory, technical, legal, accounting, costing, clerical and other staff for whom no direct charge is included in the cost of the works ;
- (b) office accommodation and office expenses (including rent, rates, lighting, heating, cleaning, water, fuel, stationery, printing, postage, telegrams, telephone and all office equipment) ;
- (c) expenditure in connection with stores, depots and the provision and use of instruments. [361]

## CASES

*Highways—Obstruction—Air-raid shelter erected in roadway by local authority—Lighting—Shelter not illuminated—Corners of shelter painted with white paint—Cyclist injured by colliding with shelter—Duty of local authority to give appropriate warning of danger.*

*Negligence—Contributory negligence—Highways—Cyclist colliding with air-raid shelter during black-out—Principle in Baker v. Longhurst not generally applicable—Special circumstances of each case proper test.*

On December 13, 1941, during the hours of black-out, the appellant was riding his bicycle when he collided with an unlighted air-raid shelter which had been erected, and was maintained, by the respondent corporation. As a result of the accident, the appellant suffered severe injuries. The shelter had never at any time been lighted, but in September, 1940, before it was completed, the respondents had received a circular letter from the Ministry of Home Security dealing with the questions of light and containing suggestions on the subject. A scheme had been worked out by the respondents' engineer, but it was disapproved by the Ministry on the ground of expense. Up to the date of the accident, nothing further had been done about lighting, but the corners of the shelter had been painted with white paint. The action was dismissed in the court below, on the ground that the respondent corporation was under no duty to light the shelter. On appeal, it was contended on behalf of the respondent corporation (i) that the accident was either due to the fact that the appellant was driving at a speed at which he could not pull up within the limits of his vision, or that he failed to keep a proper look-out ; in either case he was guilty of negligence and was, therefore, not entitled to recover ; (ii) that the case was distinguishable from *Fisher v. Ruislip-Northwood U.D.C. and Middlesex County Council*, [1945] K. B. 584, in that the respondent corporation had not omitted to do something which they reasonably ought to have done to make the shelter safe and not a source of danger to lawful users of the highway :—

*Held* : (i) the proposition laid down in *Baker v. Longhurst (E.) & Sons, Ltd.*, [1933] 2 K. B. 461, that a person driving in the dark, if unable to stop within the limits of his vision, was guilty of negligence, was not a general rule, to be observed by all users of the road, and no principle could be extracted from it affecting other cases where the circumstances were different. The

proper test, now adopted by the court as guiding all future occasions, was that such cases had to be determined on their own particular facts.

(ii) on the facts here, the respondent corporation had not discharged the onus of proving contributory negligence on the part of the appellant.

*Baker v. Longhurst (E.) & Sons, Ltd.*, [1933] 2 K. B. 461, *not followed*.

*Tidy v. Battman*, [1934] 1 K. B. 319, *applied*.

(iii) the respondent corporation were under a duty to take reasonable steps to prevent the shelter becoming a danger to users of the highway, and their failure to take any such steps made them liable to the appellant.

*Fisher v. Ruwisp-Northwood U.D.C. and Middlesex County Council*, [1945] K. B. 584, *followed*.—*MORRIS v. LUTON CORPN.*, [1946] K. B. 114; [1946] 1 All E. R. 1; 115 L. J. K. B. 202; 174 L. T. 26; 110 J. P. 102; 62 T. L. R. 145; 90 Sol. Jo. 91; 44 L. G. R. 1, C. A. [362]

*Highways—Dedication—Lane used as public footway for over 40 years prior to 1923—Right of public to use lane disputed in 1923—Whether period of 40 years must end after 1934 when Rights of Way Act, 1932, came into operation—Rights of Way Act, 1932 (c. 45), ss. 1 (1), (2), (3), (5), (6), 2 (1), 4.*

*Statutes—Retrospective operation—Rights of Way Act, 1932 (c. 45), s. 1 (2), (6).*

A certain lane had been used as a public footway as of right and without interruption for over 40 years prior to 1923, in which year D., the owner of property through which the lane passed, first disputed the right of the public to use the way. The Rights of Way Act, 1932, s. 1 (2), provides: "Where any such way has been enjoyed as aforesaid for a full period of 40 years, such way shall be deemed conclusively to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate such way." On the facts of the case, it had been found that there was no sufficient evidence that there was no intention to dedicate the way during that period. By s. 1 (6) of the Act, the period of 40 years mentioned in s. 1 (2) "shall be deemed and taken to be the period next before the time when the right of the public to use a way shall have been brought into question" by notice or otherwise. In an action brought by the rural district council to establish the right of way, it was contended on their behalf that the requirements of s. 1 (2) of the Act had been satisfied. It was contended by D. that the requirements of s. 1 (2) had not been satisfied because, on the true construction of the Act, the period of 40 years must end on a date later than January 1, 1934 (when the Act came into operation): if the Act were given a retrospective effect, the vested interests of landowners would be adversely affected, and it was contrary to the proper principles of construction so to interpret an Act as adversely to affect existing rights:—

*Held*:—(i) since the Rights of Way Act, 1932, was substantially a procedural Act, the rule against giving to it retrospective effect had no application.

*Marsh v. Higgins* (1850), 9 C. B. 551; and *Waugh v. Middleton* (1853), 8 Exch. 352, *distinguished*.

*The Ydun*, [1899] P. 236, *applied*.

(ii) upon the true construction of the Act, by virtue of s. 1 (6), one or both of the termini of the periods specified in s. 1 (1) and (2) might be before, as one or both might be after, the date of the Act's commencement, subject to the reservation contained in s. 2 (1), viz., that the Act might not be relied upon in proceedings pending on January 1, 1934, nor was the Act available, for example, upon an appeal to disturb a judgment by a court of competent jurisdiction pronouncing against the existence of a highway in any such pending, or in earlier, proceedings. The council had, therefore, satisfied the requirements of s. 1 (2) of the Act, and were entitled to obtain the

appropriate relief.—A.-G. AND NEWTON ABBOT R.D.C. v. DYER, [1947] Ch. 67; [1946] 2 All E. R. 252; 115 L. J. Ch. 232; 175 L. T. 387; 110 J. P. Jo. 321; 62 T. L. R. 632; 90 Sol. Jo. 370. [363]

## HOSPITALS

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## ORDERS, CIRCULARS AND MEMORANDA

### THE NURSES AMENDMENT REGULATIONS, 1946

*S. R. & O.*, 1946, No. 1141

*July 17, 1946*

The Minister of Health, in exercise of the powers conferred on him by proviso (b) to subsection (1) of section 6 of the Nurses Act, 1943, and of all other powers enabling him in that behalf, hereby makes the following regulations :—

1.—(1) These regulations may be cited as the Nurses Amendment Regulations, 1946, and shall come into operation on the 1st day of October, 1946.

(2) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [364]

2. Subparagraph (m) of paragraph (1) of regulation 2 of the Nurses Regulations, 1945 (which authorises the use by certain persons of the name or title of "Christian Science nurse") is hereby revoked. [365]

\* \* \* \*

### THE NURSES AMENDMENT (NO. 2) REGULATIONS, 1946

*S. R. & O.*, 1946, No. 1893

*November 11, 1946*

The Minister of Health, in exercise of the powers conferred on him by proviso (b) to subsection (1) of section 6 of the Nurses Act, 1943, and of all other powers enabling him in that behalf, hereby makes the following regulations :—

1.—(1) These regulations may be cited as the Nurses Amendment (No. 2) Regulations, 1946, and shall come into operation on the date hereof.

(2) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [366]

2. Regulation 2 of the Nurses (No. 2) Regulations, 1945 (which authorises the use, until the thirty-first day of December, 1947, by certain persons who

are acquiring experience with a view to enrolment as assistant nurses, of the name or title of "probationer assistant nurse") shall have effect as if for the words "thirty-first day of December, 1947" there were substituted the words "thirty-first day of December, 1948". [367]

\* \* \* \* \*

### Circular 2/46

To :—

*Local Authorities owning Hospitals  
(including Mental Hospitals and  
Mental Deficiency Institutions),*

*Joint Hospitals and Sanatoria Boards  
and Committees,*

*Voluntary Hospitals (including Mental  
Hospital and Mental Deficiency  
Institutions) and Sanatoria,*

*Registered Hospitals (mental patients).*

MINISTRY OF HEALTH,

WHITEHALL,

LONDON, S.W.1.

7th January, 1946.

SIR,

### EMPLOYMENT AND TRAINING OF MALE NURSES IN HOSPITALS AND SIMILAR INSTITUTIONS

1. I am directed by the Minister of Health to state that he has had under consideration the desirability of the more general employment of male nurses and assistant nurses in hospitals, sanatoria, and similar institutions, including Public Assistance Institutions, and of the provision of additional training facilities for them. Reference to the increased use of male nurses was made in paragraph 20 of the Memorandum "Staffing the Hospitals" which was enclosed with Circular 189/45 issued on 12th November, 1945, but the Minister thinks that it may be helpful to hospital authorities if he amplifies what is stated in that Memorandum. He has, on this matter, received the advice of the National Advisory Council on Nurses and Midwives, and their recommendation that there should be increased facilities for the training of male nurses has been taken into account in the preparation of this Circular. [368]

2. At the present time, male nurses are employed in large numbers in the male blocks of Mental Hospitals and Mental Deficiency Institutions. In other types of hospital and institution the employment of male nurses is the exception rather than the rule, though the Minister is aware that male nurses are employed and facilities for their training are available in a number of such hospitals. The Minister is of opinion, however, that male nurses can play a most important part in helping to relieve the acute staffing difficulties from which hospitals and sanatoria throughout the country are now suffering. He would draw particular attention to the fact that many men now being demobilised have been engaged on nursing duties in general or special hospitals during their service with H.M. Forces. Some may already be State Registered nurses or may be eligible to take the State examinations without further training; others may have had partial training for State Registration which was interrupted by their war service and may be intending to resume training on demobilisation. Others still may be enrolled Assistant Nurses or may have had sufficient training or experience to be admitted to the Roll of Assistant Nurses, and the Minister has no doubt that many of these men will be glad to take up employment as such in civilian hospitals. Moreover, the Minister understands that many other Service men who have been engaged on nursing duties would like to train for the Register or the Roll. [369]

3. Arrangements have already been made for the need for more nurses and the opportunities in a nursing career to be made known to men being released from H.M. Forces and from other forms of war work, and as the authority will be aware from Circular 187/45 issued on the 9th November special allowances are now available from the Government in certain circumstances to those who take up nursing training after having been engaged in the Forces or other work of national importance. The Minister hopes that these and other measures will help in encouraging more men to take up nursing training or employment, and that the qualifications and experience of these men will be utilised to the fullest possible extent. [370]

4. The Minister desires to make it clear that he is not suggesting the increased employment of male nurses in hospitals, sanatoria and similar institutions simply as a temporary measure to help cope with the immediate staffing difficulties. He is advised that male nurses have an important and permanent part to play in the hospital services and that they can contribute much to the success of new health developments and of the national health service which is envisaged. [371]

5. The Minister suggests that all general hospitals with training facilities should, as soon as practicable, consider whether it is possible to establish a complete training school for male nurses. General hospitals not possessing facilities for a complete training school and special hospitals may be able to secure approval as affiliated training schools, in conjunction with complete training schools for male nurses. If facilities for training for State Registration are not available, the establishment of a training school for male pupil assistant nurses should be considered. The approval of the General Nursing Council will in any such case be required, and the Minister understands—and hospital authorities generally will already know—that the General Nursing Council have, pending approval of the training rules relating to assistant nurses, been prepared to give provisional approval to the establishment of courses for training such nurses at hospitals attaining the necessary standard. Similarly, it is suggested that tuberculosis institutions should—whether or not they are also considering the establishment of an affiliated training school for male nurses—consider the possibility of establishing a training school for male nurses to obtain the nursing certificate of the Tuberculosis Association, who, the Minister understands, accept for the examination for their certificate, male nurses who have completed the prescribed training. It will be appreciated that since men willing to train as nurses are often married and have homes which it may not be possible for them to leave at present it is desirable that there should be a wide distribution of training schools, complete or affiliated. [372]

6. The Minister suggests also that all authorities who are prepared to make use, or fuller use, of the services of male nursing staff already possessing a nursing qualification should at once inform the appropriate Nursing Appointments Office of the Ministry of Labour and National Service and let them know the additional numbers of male nurses in the different grades whom they are willing to employ. [373]

7. The Minister recognises that in some hospitals and institutions suitable accommodation may not at present be available for male nurses. He desires, however, to stress the fact that male nurses (including nurses in training) are at the present time largely non-resident and this will mean that, in general, residential accommodation need not be provided for them. Male nurses can, of course, share the common dining and recreation rooms (if these rooms are sufficiently large), but it may be necessary for rest-room and cloakroom accommodation to be provided for the male nurses, if not already available. The Minister will, wherever possible, be prepared to



give every consideration to proposals for minor schemes of adaptation to provide suitable accommodation where not already available, but it will be understood that in view of the present position regarding labour and materials, such schemes may sometimes have to be deferred for the present. [374]

8. In the case of local authorities a copy of this Circular is being sent to the Medical Officer of Health. [375]

I am, Sir, etc.

\* \* \* \* \*

The Town Clerk,  
The Clerk of the Council,  
The Clerk of the Joint Board, Mental  
Hospitals Board or Visiting Com-  
mittee,  
The Secretary or House Governor.

**Circular 4/46**

To all :—

*Local Authorities owning Hospitals  
(including Mental Hospitals and  
Mental Deficiency Institutions),  
Joint Hospitals and Sanatoria Boards  
and Committees,  
Voluntary Hospitals (including Mental  
Hospitals and Mental Deficiency  
Institutions) and Sanatoria,  
Registered Hospitals (mental patients).*

MINISTRY OF HEALTH,  
WHITEHALL,  
LONDON, S.W.1.  
10th January, 1946.

SIR,

### **NURSES ACTS, 1943 AND 1945**

#### **RULES FRAMED BY THE GENERAL NURSING COUNCIL RELATING TO THE TRAINING AND EXAMINATION OF ASSISTANT NURSES**

1. I am directed by the Minister of Health to refer to Circular 97/45 (issued on 9th June, 1945) regarding the Nurses Acts, 1943 and 1945, and, in particular, to paragraph 4 of that Circular, which stated that rules of the General Nursing Council relating to the future training of assistant nurses were under consideration. I am to state that the Minister has now approved rules made by the General Nursing Council governing the admission to the Roll of Assistant Nurses by training and examination and has laid the Rules before Parliament. [376]

2. Hospital authorities will wish to know that the rules provide for the approval by the General Nursing Council of hospitals for the chronic sick which satisfy the Council's requirements as complete training schools for assistant nurses. They also provide for the approval of any other hospitals (including, for example, sanatoria, infectious diseases hospitals and small general hospitals) which attain the necessary standard as component training schools for assistant nurses, that is to say, training schools which are in the opinion of the Council, capable of providing, as component members of a group of training schools, a part of the complete training qualifying for admission to the examination for the Roll of Assistant Nurses. The rules further provide that after 31st December, 1947, admission to the Roll will be only by examination, taken normally after a course of training lasting two years in an approved training school or training schools for assistant nurses.

[377]

3. Copies of the Rules setting out the full provisions may be obtained from the Registrar, General Nursing Council for England and Wales, 23, Portland Place, London, W.1, price 1s. net, to whom any enquiries for detailed information and advice should be addressed. [378]

4. The Minister wishes to emphasise the desirability for all hospitals which have not suitable facilities for training for State Registration to consider urgently the possibility of establishing training schools for assistant nurses either alone or in conjunction with other hospitals and to submit their applications for approval to the General Nursing Council without delay. Hospitals which are already approved for the training of student nurses for admission to the Register may also apply for approval as training schools for assistant nurses, provided that the training of student nurses is carried out entirely separately from that of pupil assistant nurses. It will be appreciated that unqualified persons who enter non-training establishments for the first time after 1st January, 1946, will not be able to use any title including the word "nurse," nor will they be able to secure admission to the Roll of Assistant Nurses, since by 31st December, 1947 (after which admission to the Roll will be only by examination), they will not have completed the two years whole-time training or experience in the nursing of the sick under the supervision of trained nursing staff in a hospital or institution necessary to qualify for admission as assistant nurses with "intermediate qualifications." In the interests of maintaining an adequate flow of recruits and of enrolled assistant nurses, who have an important part to play in hospitals and in the Health Services generally, the Minister considers the establishment of more assistant nurse training schools a matter of the first urgency. [379]

5. A copy of this Circular is being sent to the Medical Officer of Health. [380]

I am, Sir, etc.

\* \* \* \* \*

The Clerk of the Council,  
The Town Clerk,  
The Clerk of the Joint Board, Mental  
Hospitals Board or Visiting Committee,  
The Secretary or House Governor.

## HOUSING

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## STATUTES

### THE FURNISHED HOUSES (RENT CONTROL) ACT, 1946

(9 & 10 Geo. 6, c. 34)

#### PRELIMINARY NOTE

This Act, which received the Royal Assent on March 26, 1946, is designed to protect the tenants of houses or parts of houses let at rents which include payments

for the use of furniture or for services from being charged excessive rents. It provides a form of control of properties not covered by the Rent Restrictions Acts.

Those Acts deal primarily with the control of rents of unfurnished houses. Except as expressly provided, they do not apply to any dwelling-house *bona fide* let at a rent which includes payments in respect of board, attendance or use of furniture (s. 12 (2) of the 1920 Act (10 Halsbury's Statutes 345) and s. 3 (2) (b) of the 1939 Act (32 Halsbury's Statutes 974)), provided that the amount of rent which is fairly attributable to the attendance or use of furniture, regard being had to the value of the same to the tenant, forms a substantial portion of the whole rent (s. 10 (1) of the 1923 Act (10 Halsbury's Statutes 369)). Express provisions as to furnished houses are contained in ss. 9 and 10 of the 1920 Act (*ibid.*, 342, 343) as modified by the 1939 Act (32 Halsbury's Statutes 978) in their application to houses brought under control by that Act. S. 9 provides that where any person lets a house controlled before September, 1939, at a rent which includes payment in respect of the use of furniture and it is proved to the satisfaction of the county court that the rent charged is yielding or will yield a profit more than 25 per cent. in excess of the normal profit (*i.e.* the profit which might reasonably have been expected from a similar letting in the year ending on August 3, 1914), the court may order that the excess shall be irrecoverable and if paid shall be repaid to the tenant. As regards houses controlled under the 1939 Act, the section applies subject to the modification that normal profit is defined as the profit which might reasonably have been expected from a similar letting in the year ending on September 1, 1939, and 25 per cent. cannot be added to that profit. S. 10 renders a person who charges an extortionate rent liable to a fine not exceeding £100.

A Committee, known as the Ridley Committee, was appointed in November, 1943, "to review the question of rent control, including the working of the Rent Restrictions Acts, and to advise whether any, and, if so what, changes are necessary." The Committee presented their Report in February, 1945, and it was published in April, 1945 (Cmd. 6621). Dealing with furnished lettings (Section XI) the Committee considered the provisions of ss. 9 and 10 of the 1920 Act, *supra*, and came to the unanimous conclusion that the existing powers were inadequate to control the rent of furnished lettings effectively (para. 144). They drew attention to the Rent of Furnished Houses (Control) (Scotland) Act, 1943, which was passed to deal with excessive rents of furnished houses in Scotland, and recommended that a scheme for the control of furnished houses on the lines of this Act should be applied throughout Great Britain, and should be incorporated in a new Act, which they recommended should be passed to consolidate all the existing legislation on rent control (paras. 29-32, 148). Since Parliamentary time is not at present available for dealing with the comprehensive measure recommended by the Committee, this Act has been passed as an interim measure to deal with the problem of controlling rents of furnished lettings. In the main it follows the provisions of the Scottish Act, which was passed in 1943, and which the Ridley Committee found had produced beneficial results (para. 147).

The Act only applies in a district, which may be the whole or part of the area of a local authority, in which it has been brought into force by order of the Minister of Health on representation by, or after consultation with, the local authority (s. 1 (1)). For each district in which the Act is in force, there is to be a tribunal consisting of a chairman and two other members appointed by the Minister of Health. If the Minister so directs, the same tribunal may act for more than one such district. Numerous tribunals have already been set up.

Either party to a contract for a letting at a rent which includes payment for the use of furniture or for services, or the local authority, may refer the contract to the tribunal for the district for determination of the rent payable (s. 2 (1)). The tribunal must then consider the reference unless it is withdrawn by the referring party before they have entered upon the consideration thereof and, after making inquiries and giving each party an opportunity of being heard or of submitting representations in writing, approve the rent payable under the contract or reduce it to such sum as they consider reasonable, or may, if they think fit, dismiss the reference (s. 2 (2)). In two cases the tribunal may increase the rent payable under the contract. (1) Where the rent payable for any premises has been entered in a register of rents which the local authority is required to keep (see *infra*), the lessor or lessee or local authority may refer the case to the tribunal for reconsideration on the ground of change of circumstances, and the tribunal will then have power, in addition to the

powers under s. 2 (2), to increase the rent payable (s. 2 (3)). (2) Where a contract referred to a tribunal is one the rent whereunder includes payment for services, the tribunal may increase the rent payable where there has been an increase, since September 3, 1939, in the cost of providing the services (s. 2 (4)). An approval, reduction or increase of rent may be limited to rent payable in respect of a particular period (s. 2 (5)). A tribunal is not required to entertain a reference by a lessor or lessee if satisfied that the reference is frivolous or vexatious (s. 2 (6)).

A local authority is required to keep a register containing, with regard to any contract under which a rent is payable that has been approved, reduced or increased (being a contract relating to premises situated in the area of the local authority), particulars of the contract, a specification of the premises and the amount of rent as approved, reduced or increased by the tribunal. The register must be available for inspection (s. 3). Certified copies of entries in the register are receivable in evidence in all courts and in any proceedings and may be obtained by any person on payment of the prescribed fee (s. 11).

It is illegal to require or receive payment of any sum in excess of the registered rent or of any premium or consideration in addition to that rent, and where any such payment has been made or consideration received, the amount or value thereof is recoverable by the person who made the payment or gave the consideration (s. 4). Contravention of these provisions is punishable on summary conviction with a fine not exceeding £100 or imprisonment up to six months, or both, and the convicting court may order the amount paid or the value of the consideration given to be repaid to the person who made the payment or gave the consideration. A lessor may be required, when a contract has been referred to a tribunal, to give the tribunal certain particulars relating to the contract and failure to comply with this provision renders him liable, on summary conviction, to a fine not exceeding £20, or to imprisonment up to three months or both (s. 9).

The Act does not apply to Scotland or to Northern Ireland. It expires on December 31, 1947 (s. 13). [381]

#### ARRANGEMENT OF SECTIONS

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*An Act to make provision with respect to the rent of houses or parts thereof let at a rent which includes payment for the use of furniture or for services. [382]*  
[26th March, 1946.]

**1. Application of Act by order of Minister of Health, and appointment of tribunal.**—(1) Where, as respects a district consisting of the whole or part of the area of a local authority, the Minister of Health (hereinafter referred to as "the Minister") is satisfied on representation by, or after consultation

with, the local authority that it is expedient that the provisions of this Act should have effect in that district, he may, by order, direct that this Act shall have effect in that district as from such day as may be specified in the order, and this Act shall thereupon come into force in that district. [383]

(2) For each district in which this Act is in force there shall be a tribunal constituted in accordance with the Schedule to this Act, and the provisions of that Schedule shall apply to each tribunal :

Provided that, if the Minister so directs, the same tribunal may act for more than one such district. [384]

*Application of the Act.*—It will not be necessary to apply the Act throughout the country, since, as was pointed out by the Minister of Health in moving the Second Reading of the Bill (415 H. of C. Official Report 1944), there are large areas of the country where the problem with which it deals does not exist, the problem being almost entirely metropolitan. Accordingly, the Act is to be brought into force by order of the Minister of Health only in a district where the Minister on representation by, or after consultation with, the local authority concerned, is satisfied that it is necessary.

*Constitution of tribunal.*—See Schedule, *post*. The members of a tribunal are appointed by the Minister of Health. It was stated by the Minister in moving the Second Reading of the Bill (415 H. of C. Official Report 1945) that it was not considered necessary that the chairman of a tribunal should in every case possess legal qualifications. In Ministry of Health Circular No. 70/46, the Minister has requested local authorities to bring to his attention the names and qualifications of any persons whom they wish to suggest as chairmen or members of tribunals, and has indicated that he does not consider it desirable to appoint persons in the service of local authorities.

As to tenure of office of members of tribunals, see the Furnished Houses (Rent Control) Regulations, 1946 (S. R. & O., 1946, No. 781), *post*.

*Definitions.*—For definitions of "local authority," "tribunal," see s. 12, *post*.

**2. Reference to tribunal of contracts for furnished letting.**—(1) Where a contract has, whether before or after the passing of this Act, been entered into whereby one person (hereinafter referred to as the "lessor") grants to another person (hereinafter referred to as the "lessee") the right to occupy as a residence a house or part of a house situated in a district in which this Act is in force in consideration of a rent which includes payment for the use of furniture or for services, whether or not, in the case of such a contract with regard to part of a house, the lessee is entitled, in addition to exclusive occupation thereof, to the use in common with any other person of other rooms or accommodation in the house, it shall be lawful for either party to the contract or for the local authority to refer the contract to the tribunal for the district, and where any such contract (hereinafter referred to as "a contract to which this Act applies") is so referred to the tribunal, they may by a notice in writing served on the lessor require him to give to them, within such period (which shall not be less than seven days from the date of the service of the notice) as may be specified in the notice, such information as they may reasonably require regarding such of the prescribed particulars relating to the contract as are specified in the notice. [385]

(2) Where any contract to which this Act applies is referred to a tribunal, then, unless at any time before the tribunal have entered upon consideration of the reference it is withdrawn by the person or authority by whom it was made, the tribunal shall consider it and, after making such inquiry as they think fit, and giving to each party (and, if the house is one the general management whereof is vested in and exercisable by a housing authority, to that authority) an opportunity of being heard, or, in his option, of submitting representations in writing, shall approve the rent payable under the contract or reduce it to such sum as they may, in all the circumstances, think reasonable, or may, if they think fit in all the circumstances, dismiss the reference, and shall notify the parties and the local authority of their decision in each case. [386]

(3) Where the rent payable for any premises has been entered in the register in accordance with the provisions hereinafter contained, it shall be

lawful for the lessor or the lessee or the local authority to refer the case to the tribunal for reconsideration of the rent so entered, on the ground of change of circumstances, and the provisions of subsection (2) of this section shall apply on any such reference in like manner as they apply on a reference under subsection (1) of this section subject to the modification that the tribunal shall have power to increase the rent payable. [387]

(4) Where on any reference of a contract, the rent whereunder includes payment for services, the tribunal are of opinion that it would be proper that the rent payable for the premises should include an amount in respect of increase since the third day of September, nineteen hundred and thirty-nine, in the cost of providing such services, and are also of opinion that in all the circumstances a rent higher than the rent payable under the contract might properly be chargeable for the premises in order to include an amount in respect of such increase, they may approve a rent higher by not more than such amount as they think reasonable in that respect. [388]

(5) An approval, reduction or increase under this section may be limited to rent payable in respect of a particular period. [389]

(6) Notwithstanding anything in the foregoing provisions of this section, a tribunal shall not be required to entertain a reference made otherwise than by the local authority if they are satisfied, having regard to the length of time elapsing since a previous reference made by the same party or to other circumstances, that the reference is frivolous or vexatious. [390]

*District in which Act is in force.*—See s. 1, *ante*, and notes thereto.

*Payment for use of furniture or for services.*—Houses let at a rent which includes payments in respect of attendance or use of furniture, where the payments attributable to the attendance or the use of the furniture form a substantial part of the rent are not within the Rent Restrictions Acts (see Preliminary Note, *ante*). "Attendance" for this purpose is not defined by the Acts, but has been the subject of judicial decisions. In this section it has been replaced by the word "services," which has a wider meaning in that it includes, in addition to attendance, the provision of heating or lighting, the supply of hot water and any other privilege or facility connected with the occupancy of a house or part of a house (see s. 9, *post*). Thus an unfurnished house supplied with hot water comes within the terms of this Act. Premises of a rateable value of less than £100 will in some cases come within the terms of both this Act and the Rent Restrictions Acts; firstly, because this Act does not require the value of the furniture or services to form a substantial part of the rent, and, secondly, because of the above definition of "services." In such cases the provisions of the Rent Restrictions Acts will prevail, for s. 7 (*post*) provides that, with one exception, nothing in this Act is to affect the provisions of those Acts. The Act is intended to provide a form of rent control for a class of property not protected by the Rent Restrictions Acts (420 H. of C. Official Report 898).

As to what constitutes "attendance" for the purposes of the Rent Restrictions Acts, see *Palser v. Grinling*, [1946] 2 All E. R. 287, which also lays down rules for ascertaining the amount of rent fairly attributable thereto, and as to whether such amount constitutes a substantial portion of the rent. It was decided in that case that in the absence of special circumstances 20 per cent. of the whole rent constituted a substantial proportion, anything less than 15 per cent. did not and that from 15 to 20 per cent. formed a "border line" case.

As to ascertaining the amount of rent fairly attributable to the use of furniture and as to whether such amount constitutes a substantial portion thereof, see *Property Holding Co., Ltd. v. Mischeff*, [1946] 2 All E. R. 294, which applies the same rules as in *Palser v. Grinling*, *supra*, as to what forms a substantial portion of the rent. See also *Maddox Properties, Ltd. v. Klass*, [1946] 1 All E. R. 487.

*Rateable value.*—There is no limit on rateable value under this Act as there is under the Rent Restrictions Acts.

*Duty of lessor to give information.*—Under s. 9 (2), *post*, a lessor who fails without reasonable cause to give the required information within the specified time is liable on summary conviction to a fine not exceeding £20 or to imprisonment up to three months, or to both. As to information to be given by lessors, see the Furnished Houses (Rent Control) Regulations, 1946 (S. R. & O., 1946, No. 781), *post*.

*Withdrawal of reference.*—This provision follows a recommendation of the Ridley Committee (see para. 150 (b) of the Committee's Report (Cmd. 6621)).

*Proceedings before tribunals.*—See s. 8, *post*, which empowers the Minister to make regulations with regard to proceedings before tribunals. In pursuance of that section the Minister has made the Furnished Houses (Rent Control) Regulations, 1946 (S. R. & O., 1946, No. 781), *post*.

*Dismiss the reference.*—In the course of discussions on the Bill it was pointed out that there might be cases in which a particularly low rent was being charged because of a special relationship between the lessor and the lessee. If, in these circumstances, a lessee refers a contract to a tribunal with a view to getting the low rent registered as the rent of the house, the tribunal is able to dismiss the reference and thus leave the lessor free to raise the rent.

*Reconsideration of rent.*—Where a rent has been fixed by a tribunal and entered in the

register (see s. 3, *post*), the lessor, lessee or local authority may refer the case to the tribunal for reconsideration of the rent on the ground that there has been a change of circumstances, such as an addition to or reduction in furniture or services, since the previous reference. On such a reference, the tribunal may either exercise their powers under sub-s. (2) or increase the rent under sub-s. (3).

*Increase in cost of services.*—The cost of providing services such as portage, cleaning, hot water, central heating and lifts has risen considerably since September, 1939, and the tribunal is therefore empowered, on the reference of a contract under which the lessor is bound to provide these services, to increase the rent of the premises. This provision follows a recommendation in para. 81 of the Ridley Committee's Report (Cmd. 6621). Except as provided in sub-ss. (3) and (4), tribunals have no power to increase rents, and, even where a rent is increased, the lessor will not be able to recover the increase during an existing tenancy.

*Sub-s. (5).*—The purpose of this sub-section is to meet the case of premises, such as seaside dwellings, which may be subject to seasonal variations in rent.

*Appeal and review.*—Against a decision of a tribunal there is no appeal, and *certiorari* does not lie to bring up and quash a decision which is good on its face and not outside the jurisdiction of the tribunal (*R. v. Paddington and St. Marylebone Furnished Houses Rent Tribunal, Ex parte Kendal Hotels, Ltd.*, [1947] 1 All E. R. 448).

**3. Register of rents.**—(1) The local authority shall prepare and keep up to date a register for the purposes of this Act, and shall make the register available for inspection in such place or places and in such manner as the Minister may direct. [391]

(2) The register shall be so prepared and kept up to date as to contain, with regard to any contract under which a rent is payable that has been approved, reduced or increased under the last foregoing section (being a contract relating to premises situated in the area of the local authority), entries of—

- (a) the prescribed particulars with regard to the contract ;
- (b) a specification of the premises to which the contract relates ; and
- (c) the rent as approved, reduced or increased by the tribunal, and, in a case in which the approval, reduction or increase is limited to rent payable in respect of a particular period, a specification of that period. [392]

(3) It shall be the duty of the tribunal, when they notify, under sub-section (2) of the last foregoing section, the local authority of their decision in a case, to furnish to the local authority such particulars as are requisite for enabling them to discharge their functions under the foregoing provisions of this section. [393]

*Inspection of register.*—See the Furnished Houses (Rent Control) Regulations, 1946 (S. R. & O., 1946, No. 781), *post*.

*Definitions.*—For definitions of "local authority," "register," "rent," see s. 12, *post*.

*Increase of rent.*—Once a rent has been fixed by a tribunal and entered in the register, it can only be increased on a further reference to a tribunal for reconsideration of the rent on the ground of change of circumstances. See s. 2 (3), *ante*.

*Rents in excess of registered rents.*—Note the provisions of ss. 4 and 9, *post*, as to requiring or receiving rents in excess of registered rents.

*Sub-s. (3).*—As to particulars to be furnished by the tribunal to the local authority, see the Furnished Houses (Rent Control) Regulations, 1946 (S. R. & O., 1946, No. 781), *post*.

**4. Rents in excess of registered rents and premiums illegal.**—(1) Where the rent payable for any premises is entered in the register under the provisions of this Act, it shall not be lawful to require or receive—

- (a) on account of rent for those premises in respect of any period subsequent to the date of such entry (or, in a case in which a particular period is specified, in respect of that period) payment of any sum in excess of the rent so entered ; or
- (b) as a condition of the grant, renewal or continuance of a contract to which this Act applies relating to such premises, payment of any fine, premium or other like sum, or any consideration, in addition to the rent. [394]

(2) Where any payment or consideration has been made or received



in contravention of the foregoing subsection, the amount or value thereof shall be recoverable by the person by whom it was made or given. [395]

See s. 9, *post*, as to penalties for contravention of the provisions of this section.

*Definitions.*—For definitions of “register,” “rent,” see s. 12, *post*.

**5. Provision as to notice to quit served after reference to tribunal.**—If, after a contract to which this Act applies has been referred to a tribunal by the lessee or by the local authority (either originally or for reconsideration), a notice to quit the premises to which the contract relates is served by the lessor on the lessee at any time before the decision of the tribunal is given or within three months thereafter, the notice shall not take effect before the expiration of the said three months :

Provided that—

- (a) the tribunal may, if they think fit, direct that a shorter period shall be substituted for the said three months in the application of this section to the contract that is the subject of the reference ; and
- (b) if the reference is withdrawn, the period during which the notice is not to take effect shall end on the expiration of seven days from the withdrawal of the reference. [396]

*Security of tenure.*—This section follows the recommendation of the Ridley Committee given in para. 151 of their Report (Cmd. 6621). Security of tenure begins when a contract is referred to a tribunal and continues for a maximum period of three months from the date of the tribunal's decision. There may, however, be circumstances in which it is neither desirable nor necessary to give security of tenure for the full period of three months, and a tribunal is therefore empowered to prescribe a shorter period where it thinks fit.

**6. Provisions as to local authorities.**—(1) For the purposes of this Act, the local authority shall be—

- (a) elsewhere than in the administrative county of London, the council of the borough, urban district or rural district ;
- (b) in the administrative county of London other than the City of London, the council of the metropolitan borough ;
- (c) in the City of London, the common council. [397]

(2) The powers of the local authority under this Act may, if the local authority so resolve, be exercised by one of their officers appointed by them for the purpose. [398]

(3) The local authority shall have power to publish information regarding the provisions of this Act. [399]

(4) Any expenses incurred under this Act by the common council of the City of London shall be defrayed out of the general rate. [400]

*Definition.*—For definition of “local authority,” see s. 12, *post*.

**7. Ss. 9 and 10 of 10 & 11 Geo. 5, c. 17 not to apply to registered dwelling houses.**—Sections nine and ten of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920 (which relate respectively to limitation on rent of houses let furnished and to penalty for excessive charges for furnished lettings), shall not apply as regards the rent charged for any house or part of a house entered in the register under the provisions of this Act in respect of any period subsequent to such registration, but save as aforesaid nothing in this Act shall affect any provisions of the Rent and Mortgage Interest Restrictions Acts, 1920 to 1939. [401]

*Increase of Rent and Mortgage Interest (Restrictions) Act, 1920.*—10 Halsbury's Statutes 332. For ss. 9 and 10, see *ibid.* 342, 343 ; and for effect of these sections, see Preliminary

Note, *ante*. Proceedings cannot be taken under these sections in respect of the rent of a dwelling-house which has been registered under this Act.

*Rent and Mortgage Interest Restrictions Acts, 1920 to 1939.*—These are the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920, the Rent Restrictions (Notices of Increase) Act, 1923, the Rent and Mortgage Interest Restrictions Act, 1923, the Rent and Mortgage Interest (Restrictions Continuation) Act, 1925 (10 Halsbury's Statutes 332, 361, 365, 374), the Rent and Mortgage Interest Restrictions (Amendment) Act, 1933 (26 Halsbury's Statutes 266), the Increase of Rent and Mortgage Interest (Restrictions) Act, 1935 (28 Halsbury's Statutes 119), the Increase of Rent and Mortgage Interest (Restrictions) Act, 1938 (31 Halsbury's Statutes 387), and the Rent and Mortgage Interest Restrictions Act, 1939 (32 Halsbury's Statutes 971). As to properties coming within the terms of both this Act and the Rent Restrictions Acts, see notes to s. 2, *ante*.

**8. Regulations.**—The Minister may make regulations—

- (a) with regard to the tenure of office of chairmen and other members of tribunals ;
- (b) with regard to proceedings before tribunals under this Act ;
- (c) for prescribing anything which is required by this Act to be prescribed ; and
- (d) generally for carrying into effect the provisions of this Act. [402]

**9. Offences.**—(1) A person who requires or receives any payment or any consideration in contravention of section four of this Act shall be guilty of an offence and be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment, and, without prejudice to any other method of recovery, the court by which he is found guilty may order the amount paid or the value of the consideration given to be repaid to the person by whom the payment was made or the consideration given. [403]

(2) If the lessor under a contract to which this Act applies fails without reasonable cause, within the time limited in that behalf, to comply with the provisions of any notice served under subsection (1) of section two of this Act, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding twenty pounds or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment. [404]

*Payment or consideration in contravention of s. 4.*—If a lessor requires or receives any rent in excess of the registered rent or requires or receives any premium or consideration in addition to the rent as a condition of a grant, renewal or continuance of a lease coming under this Act, he is guilty of an offence and is liable on summary conviction to the penalties prescribed by sub-s. (1), *supra*.

*Notice served under s. 2 (1).*—A lessor incurs the penalties prescribed by sub-s. (2), *supra*, if he fails without reasonable cause to furnish a tribunal to whom a contract has been referred with such information concerning the contract as they may reasonably require.

**10. Institution of proceedings.**—The local authority shall have power to institute proceedings for an offence under this Act, and no such proceedings shall be instituted otherwise than by them. [405]

*Offence under this Act.*—See s. 9, *ante*, as to offences under the Act.

**11. Evidence.**—(1) A copy of an entry in the register certified under the hand of an officer duly authorised in that behalf by the local authority shall be receivable in evidence of that entry in all courts and in any proceedings. [406]

(2) Any person requiring such a certified copy as aforesaid shall be entitled to obtain it on payment of the prescribed fee. [407]

*Entry in register.*—See s. 3, *ante*, as to registers which must be kept by local authorities, and particulars which must be entered therein. Under s. 3 (1) the register must be available for inspection as the Minister may direct. The fee for a certified copy of an entry in the register is one shilling (see the Furnished Houses (Rent Control) Regulations, 1946 (S. R. & O., 1946, No. 781), *post*).

**12. Interpretation and saving.**—(1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say :—

“housing authority” means a council which is a local authority for the purposes of Part V of the Housing Act, 1936 ;

“local authority” has the meaning assigned to that expression by section six of this Act ;

“register” means the register kept by the local authority in pursuance of section three of this Act ;

“services” includes attendance, the provision of heating or lighting, the supply of hot water and any other privilege or facility connected with the occupancy of a house or part of a house, not being a privilege or facility requisite for the purposes of access, cold water supply or sanitary accommodation ;

“tribunal” means a tribunal appointed in pursuance of section one of this Act. [408]

(2) Where separate sums are payable by the lessee of any premises to the lessor for any two or more of the following, namely :—

(a) occupation of the premises ;

(b) use of furniture ; and

(c) services ;

the expression “rent” shall, in relation to those premises, mean the aggregate of those sums, and where such sums are payable under separate contracts, those contracts shall be deemed to be one contract. [409]

(3) Nothing in this Act shall apply to a house or part of a house let at a rent which includes payment in respect of board :

Provided that a house or part of a house shall not be deemed to be let at such a rent unless the value of such board to the lessee forms a substantial proportion of the whole rent. [410]

(4) Nothing in this Act shall apply to accommodation registered for the purposes of Regulation sixty-eight CB of the Defence (General) Regulations, 1939, which is let in accordance with the terms and conditions so registered. [411]

*Housing Act, 1936, Part V.*—29 Halsbury's Statutes 619. S. 1 (*ibid.* 565) provides that the local authority for the purposes of the Act as respects England and Wales other than the administrative county of London shall be the council of the borough, urban district or rural district, and as respects the administrative county of London shall be (a) as respects the City of London, the Common Council, and (b) as respects the administrative county of London other than the City of London the metropolitan borough council or the London County Council. S. 103 (*ibid.* 640) contains provisions for determining the question whether in any case the London County Council or the metropolitan borough council is to be the local authority for the purposes of Part V of the Act.

*Services.*—As to what constitutes “attendance” for the purposes of the Rent Restrictions Acts, see *Palser v. Grinling*, [1946] 2 All E. R. 287. See also *Wood v. Carwardine*, [1923] 2 K. B. 185 and *Property Holding Co., Ltd. v. Mischeff*, [1946] 2 All E. R. 294. This Act, following the Scottish Act, has adopted a broader term to include both attendance and services other than attendance.

“Not being a privilege . . . or sanitary accommodation.”—These words were added to the definition of “services” in order to exclude in precise terms from services which bring a letting within the Act such facilities as passageways, water taps or lavatories which may be shared by a number of tenants living in the same building (139 H. of L. Official Report 700).

*Sub-s. (2).*—This sub-section is intended to prevent evasion of the provisions of the Act by means of separate contracts and payments of rent in respect of occupation and furniture, or occupation and services, or occupation, furniture and services.

*Sub-s. (3).*—Houses let at a rent which includes payment for board are also outside the Rent Restrictions Acts (see s. 12 (2) of the 1920 Act (10 Halsbury's Statutes 345) and s. 3 (2) (b) of the 1939 Act (32 Halsbury's Statutes 974)), though these Acts do not require the value of the board to represent a substantial proportion of the total rent. Rent payable for board and lodging is not, therefore, if the value of the board is substantial, subject to any form of control.

*Defence (General) Regulations, 1939.*—S. R. & O., 1939, No. 927. The object of Regulation 68CB is to facilitate the letting by a householder of spare rooms in his house to relieve the shortage of accommodation. Particulars of the accommodation are registered with the local authority, who are empowered to provide any furniture and fittings which may be necessary to enable the accommodation to be used. The Rent Restrictions Acts do not apply to any accommodation registered and let in accordance with this Regulation.

**13. Short title, extent and duration.**—(1) This Act may be cited as the **Furnished Houses (Rent Control) Act, 1946.** [412]

(2) This Act shall not extend to Scotland or to Northern Ireland. [413]

(3) This Act shall continue in force until the thirty-first day of December, nineteen hundred and forty-seven. [414]

## Section 1

## SCHEDULE

### PROVISIONS REGARDING CONSTITUTION OF TRIBUNALS

1. A tribunal shall consist of a chairman and two other members.

2. The chairman and the other members of a tribunal shall be appointed by the Minister. During the absence or incapacity of any member a person appointed by the Minister shall act in his place.

3. The members and acting members of a tribunal shall receive such remuneration and such travelling and other allowances as the Minister may, with the consent of the Treasury, determine.

4. A tribunal may appoint a clerk and, with the approval of the Minister as to numbers, such other officers and servants as they think fit, and there shall be paid to the clerk and other officers and servants such salaries and allowances as the Minister, with the consent of the Treasury, may determine.

5. The remuneration and allowances of members and acting members of a tribunal, the salaries and allowances of the clerk and other officers and servants appointed as aforesaid, and such other expenses of a tribunal as the Treasury may determine, shall be defrayed out of moneys provided by Parliament. [415]

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## HOUSING (FINANCIAL AND MISCELLANEOUS PROVISIONS) ACT, 1946

(9 & 10 Geo. 6, c. 48)

### PRELIMINARY NOTE

The main object of this Act, which received the Royal Assent on April 18, 1946, is to provide new rates of annual Exchequer subsidy and rate fund contributions for houses provided by local authorities in the immediate post-war period. The new rates, which are in the general proportion of 3 to 1 as between national and local funds, are intended to enable houses to be let at average weekly rents (less rates) of approximately 10s. for houses in urban areas, 7s. 6d. for those in agricultural areas and flats at 12s.

In addition, the Act extends the subsidy to cover certain building operations carried out during the war in pursuance of government pledges given at the time; increases the Exchequer contribution payable under the Housing (Financial Provisions) Act, 1938 (31 Halsbury's Statutes 569) in respect of houses built for the agricultural population by private builders; provides for setting up a government-sponsored housing association to build houses for local authorities and to engage in the control and management of houses independently; provides for the payment of Exchequer grants in respect of houses of non-traditional construction built by local authorities; and deals with a number of miscellaneous matters connected with these objects.

Ss. 1-4 deal with annual Exchequer contributions and ss. 5-7 with annual rate fund contributions, while s. 8 relates to contributions from county councils which are payable in certain circumstances as set out below. S. 1 provides for an annual Exchequer contribution being paid in respect of approved houses completed by local authorities after April 18, 1946, for a period of sixty years, instead of forty years as under s. 105 of the Housing Act, 1936 (29 Halsbury's Statutes 642), for houses built under that Act; and by s. 5 (1) an annual rate fund contribution is made payable in respect of such houses for the same period. The "general standard

amount" of the Exchequer contribution, which is applicable to the majority of cases, is £16 10s. (s. 2), and the corresponding amount of the rate fund contribution, £5 10s., one third thereof (s. 5 (2)). The Act, however, makes provision for different amounts being paid in a number of particular cases :—

(i) The "special standard amount" of Exchequer contribution, £25 10s., is payable (a) in respect of houses provided by the council of a county district for their agricultural population, and (b) in respect of any houses provided by such a council where the rent-paying capacity of the local working-class population (as determined by the provisions of s. 3 (2) (b)) is exceptionally low, and the cost of the houses would impose an undue burden on the district (s. 3). In these cases the rate fund contribution is reduced to £1 10s. (s. 5 (4)), and, in addition, an annual contribution of £1 10s. is paid by the county council (s. 8 (1)). The aggregate contributions, £28 10s., payable in cases to which the special standard amount of Exchequer contribution applies, are greater than the aggregate contributions, £22, where the general standard amount applies, in order to off-set the reduced rents which it is expected will be paid in these cases (*per* the Parliamentary Secretary to the Ministry of Health; 420 H. of C. Official Report 345). Except in these cases no obligation to make contributions is imposed by the Act on county councils, though they may, with the consent of the Minister, make voluntary contributions to any district council (s. 8 (2)).

(ii) In respect of blocks of flats built on sites the cost of which as developed exceeds £1,500 an acre, the Exchequer and rate fund contributions are determined in accordance with a graduated Table contained in Part II of the First Schedule (s. 4 (1)). This Table starts by providing, where the cost of the site as developed lies between £1,500 and £4,000 an acre, for an Exchequer contribution of £28 10s. per flat, and rises by stages to provide that, where the cost exceeds £12,000 an acre, such contribution shall be £35 5s. plus £1 10s. for each additional £2,000 or part of £2,000. The rate fund contribution in all such cases is one-third of the Exchequer contribution. The scale of contributions contained in this Table is equally applicable to houses forming part of a scheme of mixed development of flats and houses which are built on such sites (s. 4 (2)).

(iii) Where lifts are installed in such blocks of flats as aforesaid, the Act provides for the Exchequer contribution being increased by a further £7 per flat and the rate fund contribution by a further £3 10s. per flat (s. 4 (1) proviso). The resulting scale of contributions is set out in Part III of the First Schedule.

(iv) In respect of a house the cost of which is substantially enhanced by reason of the local authority having to guard against subsidence of the land, the Exchequer contribution may be increased by an amount not exceeding £2, and the rate fund contribution by half such increased amount (s. 6).

(v) Where the general rate levied by a county borough, county district or metropolitan district exceeds by 25 per cent., and their housing rate by 50 per cent., the average for such rates for that class of local authority, the rate fund contribution may be reduced by half, and the Exchequer contribution increased by the amount of such reduction (s. 7). Thus the total subsidy remains the same, but the portions borne respectively by the Exchequer and the rate fund are adjusted in the latter's favour. Five county boroughs, nineteen non-county boroughs, forty-two U.D.C.s and nineteen R.D.C.s will be affected by this provision (421 H. of C. Official Report 272).

S. 16 provides for a review of the contributions payable under this Act to begin in December, 1946, and for reducing the amount or number of payments thereof by means of a ministerial order approved by an affirmative resolution of the House of Commons. No such reductions will apply to houses completed before June 30, 1947.

S. 9 extends the application of the new rates of Exchequer and rate fund contributions to cover houses completed after August 3, 1944, under the Housing (Financial Provisions) Act, 1938 (31 Halsbury's Statutes 569), as extended by the Housing (Temporary Provisions) Act, 1944 (37 Halsbury's Statutes 413). This provision implements the undertaking of the Minister of Health given during the debate on the Act of 1944 (402 H. of C. Official Report 207) that the post-war rate of subsidy should be made applicable to such houses. S. 10 is designed to implement a government undertaking to extend the post-war rate of subsidy to houses built by local authorities for war workers and agricultural workers, and

s. 11 is intended to carry out a similar undertaking in respect of the houses for war workers provided by the North-Eastern Housing Association.

S. 12 provides for annual contributions to be made by the Minister of Health to cover any losses incurred by a local authority in respect of government war buildings taken over by it for use as temporary housing accommodation.

S. 13 increases to £15 per annum for forty years the maximum Exchequer contribution payable in respect of houses provided by independent builders for the agricultural population. A house to qualify for contribution under this section must not be let at a rent exceeding the rent which the local authority would have charged had the house been provided by it; nor must it be let on a "tied" tenancy.

S. 17 provides that a special capital grant additional to any other payment under this Act may be made in respect of a house built by a local authority in a non-traditional method of construction approved by the Minister of Health, the cost of which substantially exceeds the cost of a similar house of traditional construction. In order to qualify for this grant, proposals for the provision of such a house must be submitted by the local authority to the Minister before December 31, 1947.

S. 18 is designed to give the Minister of Health powers similar to those conferred by the Building Materials and Housing Act, 1945 (38 Halsbury's Statutes 369) on the Minister of Works. It contemplates the establishment by the Minister of Health of a building organisation called a Housing Association with power not only to construct houses on behalf of local authorities as in the case of a Housing Association within the meaning of the Housing Act, 1936 (29 Halsbury's Statutes 565), but also to provide and manage houses on its own behalf. It is the government's view that such an organisation should be available both to supplement the activities of a local authority whose technical and administrative resources are insufficient for the housing needs of the district, and also to discharge the housing obligations of a local authority which has failed to carry them out (421 H. of C. Official Report 328).

The Act contains in addition a number of miscellaneous and general provisions. S. 19 is designed to secure, by means of the reduction or withholding of Exchequer contributions, that district councils reserve for their agricultural population the number of houses equal to the number in respect of which they receive the "special standard amount" of Exchequer contribution as provided by s. 3. S. 20 deals with the power of the Minister to withhold Exchequer contributions from defaulting local authorities. S. 21 amends the law as to Housing Accounts. S. 22 enables the provisions of this Act to be extended to the Council of the Scilly Isles, which is not a local authority within the meaning of the Housing Acts. S. 23 provides for the expenses and receipts of the Minister. S. 24 incorporates in the Housing Act, 1936 (29 Halsbury's Statutes 565), the adaptations set out in the Third Schedule to the Act. S. 25 is an interpretation section, and s. 26 contains the short title and citation, and provides that the Act shall not apply to Scotland or Northern Ireland. [416]

#### ARRANGEMENT OF SECTIONS

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*An Act to make fresh arrangements for the making of contributions grants and loans in connection with the provision of housing accommodation; to provide for matters subordinate to that purpose; to amend the enactments which relate to the making of contributions in respect of housing accommodation; to amend the law relating to the housing accounts of local authorities; and to facilitate the provision of housing accommodation in the Isles of Scilly. [417]*  
[18th April, 1946.]

*Contributions for houses completed after passing of this Act*

1. Exchequer contributions in respect of housing accommodation provided by local authorities.—(1) In respect of each new house provided by a



local authority in the exercise of their powers to provide housing accommodation, being a house which—

- (a) is completed after the passing of this Act; and
- (b) is approved for the purposes of this Act by the Minister of Health (hereinafter referred to as "the Minister");

the Minister shall, subject to the provisions of this Act, pay to that local authority, for each of the sixty years following the completion of the house, an annual contribution (hereinafter referred to as an "annual exchequer contribution"). [418]

(2) Subject to the provisions of this Act, the amount of each annual exchequer contribution shall be that one of the standard amounts hereinafter mentioned which is appropriate to the house in respect of which the contribution is payable. [419]

*Effect of section.*—See Preliminary Note, *ante*.

*Passing of the Act.*—April 18, 1946. For provisions relating to the payment of contributions under this Act in respect of houses completed before its passing, see ss. 9–11, *post*.

*Standard amount.*—There are five kinds of standard amount: (i) the general standard amount, £16 10s. (s. 2); (ii) the special standard amount, £25 10s., applicable to houses provided for the agricultural population and to houses provided by district councils in poor neighbourhoods (s. 3); (iii) the standard amount determined in accordance with the Table contained in Part II of the First Schedule, *post*, which is applicable to blocks of flats and houses provided under a scheme of development comprising both blocks of flats and houses, on sites costing over £1,500 an acre (s. 4 (1) and (2)); (iv) the standard amount determined in accordance with the Table contained in Part III of the First Schedule, *post*, applicable to block of flats with lifts (s. 4 (1) proviso); and (v) the standard amount applicable to houses the cost of which has been substantially enhanced by measures taken against subsidence, being one of the standard amounts (i)–(iv), *supra*, plus a sum not exceeding £2 (s. 6).

*Definitions.*—For definition of "local authority," see s. 25 (1), *post*; for "house," see s. 25 (2), *post*.

**2. General standard amount of exchequer contributions.**—Subject to the following provisions of this Act, the standard amount of the annual exchequer contribution for any house shall be sixteen pounds ten shillings.

The said amount is hereinafter referred to as the "general standard amount". [420]

*Standard amount.*—See s. 1, *ante*, and note thereto.

*Annual Exchequer contribution.*—See s. 1 (1), *ante*. For the corresponding rate fund contribution, see s. 5 (3), *post*.

*Definition.*—For definition of "house," see s. 25 (2), *post*.

**3. Special standard amount of exchequer contributions.**—(1) For a house provided by the council of a county district by way of housing accommodation required for the agricultural population of their district, the standard amount of the annual exchequer contribution shall, subject to the following provisions of this Act, be twenty-five pounds ten shillings.

The said amount is hereinafter referred to as the "special standard amount". [421]

(2) Where the Minister is satisfied, on an application made to him by the council of a county district with respect to any house which the council have provided or intend to provide—

- (a) that, apart from this subsection, the standard amount of the annual exchequer contribution for the house would be, or would be calculated by reference to, the general standard amount;
- (b) that the average rent of houses in the district occupied by wage earning workers, or by persons whose economic condition is similar to that of wage earning workers, is, where the district is a borough or urban district, substantially less than the average rent of houses so occupied in non-county boroughs and urban districts in England generally, and, where the district is a rural district, substantially

less than the average rent of houses so occupied in rural districts in England generally ; and

- (c) that when the amount of the expenditure incurred or to be incurred by the council of the county district under the enactments relating to housing is considered in relation to the financial resources of the district, the provision of the house with respect to which the application is made would impose an undue burden on the district, unless the standard amount of the annual exchequer contribution for the house is determined in accordance with this subsection ;

then, if the Minister thinks fit so to determine, the standard amount of the annual exchequer contribution for the house with respect to which the application is made shall, subject to the following provisions of this Act, be the special standard amount :

Provided that in exercising his powers under this subsection the Minister shall have regard to any conditions which may be laid down by the Treasury.

[422]

*Effect of section.*—See Preliminary Note, *ante*.

*County district.*—This is a non-county borough, an urban district or a rural district (Local Government Act, 1933, s. 1 (1) ; 26 Halsbury's Statutes 306).

*Standard amount.*—See s. 1, *ante*, and note thereto.

*Annual Exchequer contribution.*—See s. 1 (1), *ante*. For the corresponding rate fund contribution, see ss. 5-7, *post*, and for the county council contribution, see s. 8, *post*.

*The Minister.*—This means the Minister of Health (see s. 1 (1), *ante*).

*General standard amount.*—See s. 2, *ante*.

*Enactments.*—See s. 25 (3), *post*, for construction of this term.

*Definitions.*—For definition of " agricultural population," see s. 25 (1), *post* ; for " house," see s. 25 (2), *post*.

**4. Standard amount of exchequer contributions for flats, etc., on expensive sites.**—(1) For a flat provided in a block of flats on a site the cost of which as developed (ascertained in accordance with Part I of the First Schedule to this Act) exceeds one thousand five hundred pounds per acre, the standard amount of the annual exchequer contribution shall, subject to the following provisions of this Act, be determined in accordance with the Table contained in Part II of the said First Schedule :

Provided that where the whole or any part of a block of flats on such a site as aforesaid is of at least four storeys (including any storey which is constructed for use for purposes other than those of a dwelling), and expenditure has been incurred in installing lifts in the block, then, if the Minister thinks fit so to determine in relation to any of the flats in the block, the standard amount of the annual exchequer contribution for that flat shall, subject as aforesaid, be determined in accordance with the Table contained in Part III of the said Schedule. [423]

(2) Where a house (not being a flat in a block of flats)—

- (a) is provided on a site the cost of which as developed (ascertained in accordance with Part I of the First Schedule to this Act) exceeds one thousand five hundred pounds per acre ; and
- (b) is provided under a scheme of development which makes provision also for the erection of one or more blocks of flats on the same site as the house ;

then, if the Minister thinks fit so to direct, the standard amount of the annual exchequer contribution for that house shall be determined in accordance with the Table contained in Part II of the said First Schedule. [424]

(3) Any question as to what constitutes a separate site for the purposes of this section and of the said First Schedule shall be determined by the Minister. [425]

(4) For the purposes of any such determination—

- (a) where two buildings are contiguous to each other, or are separated

- from each other by a street only, the two buildings shall, if the Minister thinks proper, be deemed to be on the same site; and
- (b) where any land is purchased in connection with the provision of a building, and is to be used for the purposes of a new street to which the building will be contiguous, that land shall be deemed to form part of the site of the building.

In this subsection the expression "building" includes any land appertaining to a building, and any land appropriated for the purposes of a building which has not been erected. [426]

*Effect of section.*—See Preliminary Note, *ante*.

*Standard amount.*—See s. 1, *ante*, and note thereto.

*Annual Exchequer contribution.*—See s. 1 (1), *ante*. For the corresponding contributions from the rate fund, see s. 5 (5) and (6) and the Tables contained in Parts II and III of the First Schedule, *post*.

*House.*—See definition in s. 25 (2), *post*. *Semble* that a single flat at the top of a building otherwise used for other purposes is a "house" for the purposes of sub-s. (2), *supra*.

*The Minister.*—This means the Minister of Health (see s. 1 (1), *ante*).

*Definitions.*—For definitions of "block of flats" and "street," see s. 25 (1), *post*.

**5. Local authorities' contributions.**—(1) In respect of each house in respect of which annual exchequer contributions are payable, the local authority by whom the house was provided shall pay out of the general rate fund, for each of the sixty years following the completion of the house, an annual contribution (hereinafter referred to as an "annual rate fund contribution"). [427]

(2) Subject to the provisions of this Act, the amount of each annual rate fund contribution shall be that one of the normal amounts hereinafter mentioned which is appropriate to the house in respect of which the contribution is payable. [428]

(3) Subject to the following provisions of this Act, the normal amount of the annual rate fund contribution for any house shall be five pounds ten shillings. [429]

(4) Where the standard amount of the annual exchequer contribution for a house is the special standard amount, the normal amount of the annual rate fund contribution for the house shall, subject to the following provisions of this Act, be one pound ten shillings. [430]

(5) Where the standard amount of the annual exchequer contribution for a house is determined in accordance with the Table contained in Part II of the First Schedule to this Act, the normal amount of the annual rate fund contribution for the house shall, subject to the following provisions of this Act, be determined in accordance with that Table. [431]

(6) Where the standard amount of the annual exchequer contribution for a house is determined in accordance with the Table contained in Part III of the said First Schedule, the normal amount of the annual rate fund contribution for the house shall, subject to the following provisions of this Act, be determined in accordance with that Table. [432]

(7) In relation to a house provided by the London County Council, subsection (1) of this section shall have effect with the substitution for the reference to the general rate fund of a reference to the county fund. [433]

*Effect of section.*—See Preliminary Note, *ante*.

*Annual Exchequer contribution.*—See s. 1 (1), *ante*.

*Local authority.*—For definition, see s. 25 (1), *post*.

*Standard amount.*—See s. 1, *ante*, and note thereto.

*Normal amount of the annual rate fund contribution.*—There are five types of normal amount corresponding to the five types of annual Exchequer contribution: (i) £5 10s. where the Exchequer contribution is the general standard amount (sub-s. (3)); (ii) £1 10s. where the Exchequer contribution is the special standard amount (sub-s. (4)); (iii) the normal amount stated in the third column of Part II of the First Schedule in cases to which s. 4 (1) or s. 4 (2) apply (sub-s. (5)); (iv) the normal amount stated in the third column of Part III

of the First Schedule in cases to which the proviso to s. 4 (1) applies (sub-s. (6)) ; and (v) the normal amount applicable in cases to which the provisions of s. 6, *post*, apply, being one of the normal amounts (i)-(iv), *supra*, plus a sum not exceeding £1.

#### 6. Housing schemes involving expenditure on rights of support, etc.—

Where the Minister is satisfied, on an application made to him by a local authority with respect to any house which the authority have provided or intend to provide, that the cost of providing the house has been or will be substantially enhanced by expenses attributable to the acquisition of rights of support, or otherwise attributable to measures taken by the authority for securing protection against the consequences of a subsidence of the site, then, if the Minister thinks fit so to determine—

- (a) the standard amount of the annual exchequer contribution for the house shall be the standard amount of the annual exchequer contribution for the house, as ascertained in accordance with the preceding provisions of this Act, plus such sum not exceeding two pounds as the Minister may determine ; and
- (b) the normal amount of the annual rate fund contribution for the house shall be the normal amount of the annual rate fund contribution for the house, as ascertained in accordance with the said provisions, plus one half of the sum by which the standard amount of the annual exchequer contribution is increased under this section.

[434]

*Effect of section.*—See Preliminary Note, *ante*.

*The Minister.*—This means the Minister of Health (see s. 1 (1), *ante*).

*Standard amount.*—See s. 1, *ante*, and note thereto.

*Annual Exchequer contribution.*—See s. 1 (1), *ante*.

*Preceding provisions of the Act.*—The provisions referred to are contained in ss. 2-4, *ante*.

*Normal amount of the annual rate fund contribution.*—See s. 5, *ante*, and note thereto.

*Definitions.*—For definition of "local authority," see s. 25 (1), *post* ; for "house," see s. 25 (2), *post*.

**7. Reduction of local authorities' contributions in certain cases, and corresponding increase of exchequer contributions.**—(1) Where the Minister is satisfied, on an application made to him by a local authority to whom this section applies with respect to any house which the authority have provided or intend to provide—

- (a) that the average amount in the pound per year of the general rates levied by that authority for the three financial years immediately preceding the receipt of the application exceeds, by at least one-quarter, the average amount in the pound per authority per year of the general rates levied for those financial years by all local authorities of the same class ; and
- (b) that, for the last financial year for which adequate information is available, the rate burden of the authority in respect of housing was at least half as much again as the average rate burden in respect of housing of all local authorities of the same class for that year ;

then, if the Minister thinks fit so to determine, every annual rate fund contribution payable in respect of the house with respect to which the application is made shall, instead of being of the normal amount, be of such reduced amount, not being less than one half of the normal amount, as the Minister thinks proper. [435]

(2) Where the annual rate fund contributions payable in respect of a house are so reduced as aforesaid, the amount of every annual exchequer contribution payable in respect of the house shall be the sum of—

- (a) the standard amount of the annual exchequer contribution for the house ; and

- (b) the amount by which each of the annual rate fund contributions payable in respect of the house has been so reduced. [436]
- (3) In exercising his powers under the preceding provisions of this section the Minister shall have regard to any conditions which may be laid down by the Treasury. [437]
- (4) For the purposes of subsection (1) of this section—
- (a) where a local authority levy a general rate for part only of a financial year, the amount in the pound of the general rate levied by the authority for that year shall be the sum of the amounts in the pound of all general rates levied by the authority for periods falling within the year;
  - (b) the rate burden of an authority in respect of housing for any financial year is an amount in the pound representing the rate which, in the opinion of the Minister, it would have been necessary for the authority to levy for that year in order to raise the total sum which it was proper for them to carry to the credit of their Housing Revenue Account for the year in compliance with paragraph (e) of subsection (1) of section one hundred and twenty-nine of the principal Act; and
  - (c) local authorities shall be classified in such manner as the Minister thinks appropriate having regard to the conditions governing the provision of housing accommodation for their respective areas. [438]
- (5) The local authorities to whom this section applies are the councils of county boroughs, county districts and metropolitan boroughs. [439]

*Effect of section.*—See Preliminary Note, *ante*.

*Local authority.*—See the definition for the purposes of this section contained in sub-s. (5), *supra*. County districts include non-county boroughs, urban districts and rural districts (Local Government Act, 1933, s. 1 (1); 26 Halsbury's Statutes 306).

*The Minister.*—This means the Minister of Health (see s. 1 (1), *ante*).

*Annual rate fund contribution.*—See ss. 5, 6 and 7, *ante*.

*Annual Exchequer contribution.*—See s. 1 (1), *ante*.

*Standard amount.*—See s. 1, *ante*, and note thereto.

*Principal Act.*—The Housing Act, 1936 (29 Halsbury's Statutes 565) (see s. 25 (1), *post*). For s. 129 thereof, see *ibid.* 654.

**8. County council contributions.**—(1) Where annual exchequer contributions of the special standard amount, or of that amount as increased in accordance with any of the provisions of the last two preceding sections, are payable in respect of any house to the council of a county district, the council of the county in which the district is situated shall, subject to the provisions of this Act, pay to the council of the district in respect of that house, for each of the sixty years following the completion of the house, an annual contribution of one pound ten shillings.

The said contributions are hereinafter referred to as "county council contributions". [440]

(2) Without prejudice to their duties under the preceding subsection, the council of a county may, with the consent of the Minister, undertake to pay to the council of any county district situated in the county, in respect of any house provided by the council of the district with the approval of the Minister, an annual contribution of such amount and payable for such number of years as may be specified in the undertaking. [441]

(3) After the passing of this Act, no undertaking shall be given under subsection (4) of section one hundred and fifteen of the principal Act (which relates to the power of county councils to make contributions in respect of houses provided by the councils of rural districts). [442]

(4) A local authority who are required to keep a Housing Revenue Account shall carry to the credit of the account (in addition to the amounts which they are required to carry to the credit of that account under section one hundred and twenty-nine of the principal Act) amounts equal to the contributions, if any, payable to the authority by the county council under this section. [443]

*Effect of section.*—See Preliminary Note, *ante*.

*Annual Exchequer contributions of the special standard amount.*—See s. 3, *ante*.

*The Minister.*—This means the Minister of Health (s. 1 (1), *ante*).

*Sub-ss. (2) and (3).*—These sub-sections were added to the Bill during the Committee stage to enable county councils to make voluntary contributions towards the housing expenses of any county district. Sub-s. (4) of s. 115 of the Housing Act, 1936 (29 Halsbury's Statutes 648) conferred power to make such contributions in the case only of rural districts. The approval of the Minister of Health is made a condition for making voluntary contributions under sub-s. (2) to enable representations to be made by any local authorities feeling themselves aggrieved by the proposal.

*County district.*—This is a non-county borough, urban district or rural district (Local Government Act, 1933, s. 1 (1); 26 Halsbury's Statutes 306).

*Principal Act.*—The Housing Act, 1936 (29 Halsbury's Statutes 565) (see s. 25 (1), *post*). For s. 115 (4), see *ibid.* 648, and for s. 129, see *ibid.* 654.

*Local authorities required to keep a Housing Revenue Account.*—These are the local authorities for the purposes of Part V of the Housing Act, 1936; see ss. 1 and 128 of that Act (29 Halsbury's Statutes 565, 654).

### *Transitional provisions*

**9. Provisions relating to contributions under 1 & 2 Geo. 6, c. 16.**—(1) After the passing of this Act, no contributions shall be payable in respect of a house under section one or section two of the Housing (Financial Provisions) Act, 1938, unless the approval of the Minister for the purposes of either of those sections has been given in respect of the house before the third day of August, nineteen hundred and forty-four. [444]

(2) Where the Minister has, on or after the third day of August, nineteen hundred and forty-four, and before the passing of this Act, given his approval in respect of a house for the purposes of either of the said sections, and the house has been completed before the passing of this Act, then—

- (a) this Act shall, for the purposes of the payment of contributions in respect of that house, be deemed to have been passed immediately before the completion of the house;
- (b) the house shall be deemed to have been approved by the Minister for the purposes of this Act; and
- (c) any sums which have, before the passing of this Act, been paid in respect of the house on account of contributions under the said Act of 1938 shall, so far as is practicable, be applied in or towards the satisfaction of any contributions which become payable in respect of the house by virtue of this Act and are due immediately after the passing thereof, and, except in so far as they are so applied, shall be repayable to the person by whom they were paid. [445]

(3) Section forty-eight of the Town and Country Planning Act, 1944 (which provides for extending the duty of the Minister to make contributions under section one of the said Act of 1938), is hereby repealed. [446]

*Effect of section.*—See Preliminary Note, *ante*.

*Passing of this Act.*—April 18, 1946.

*House.*—For definition of this word for the purposes of the Housing (Financial Provisions) Act, 1938, see s. 11 (1) of that Act (31 Halsbury's Statutes 575) and s. 188 (3) of the Housing Act, 1936 (29 Halsbury's Statutes 681).

*Housing (Financial Provisions) Act, 1938, ss. 1 and 2.*—31 Halsbury's Statutes 570.

*August 3, 1944.*—This is the day on which the Housing (Temporary Provisions) Act, 1944 (37 Halsbury's Statutes 413), extending the scope of the Housing (Financial Provisions) Act, 1938, *supra*, became law; the Government undertook during the debate on the 1944 Act that the post-war housing subsidies should be made applicable to houses built under the 1938 Act after this date (402 H. of C. Official Report 207).

*The Minister.*—This means the Minister of Health (see s. 1 (1), *ante*).

*Town and Country Planning Act, 1944, s. 48.*—37 Halsbury's Statutes 472.



*Contributions in special cases*

**10. Contributions for certain houses provided by local authorities since 1939.**—(1) The provisions of this section shall have effect in relation to any house which—

- (a) is provided by a local authority in the exercise of their powers to provide housing accommodation ;
- (b) is completed after the thirty-first day of December, nineteen hundred and thirty-nine, otherwise than in pursuance of a contract made with a building contractor on or before that date ;
- (c) is a house for the construction of which building operations have begun before the passing of this Act ; and
- (d) is not a house which has in fact been approved by the Minister for the purposes of this Act, or is deemed to have been so approved by virtue of the preceding provisions of this Act. [447]

(2) If the Minister, with the consent of the Treasury, so determines, there shall, subject to the provisions of this section, be payable in respect of any such house the like annual exchequer contributions, the like annual rate fund contributions and the like county council contributions (if any) as would have been payable if—

- (a) the house had been approved by the Minister for the purposes of this Act ; and
- (b) in the case of a house completed before the passing of this Act, this Act had been passed before the completion of the house. [448]

(3) Where contributions are payable in respect of a house under the last preceding subsection, the Minister shall have power to give such directions for all or any of the following purposes as he thinks appropriate having regard to the circumstances, and, in particular, having regard to the date when the house was completed and to any payments which have been made in respect of the house out of moneys provided by Parliament—

- (a) for reducing the number of the contributions so payable in respect of the house ;
- (b) for reducing the amount of any such contribution ;
- (c) for altering the period in respect of which any such contribution is payable. [449]

(4) No contributions shall, after the passing of this Act, be paid under the Housing (Financial Provisions) Act, 1938, in respect of any house in respect of which the Minister has determined that contributions are to be paid under this section. [450]

*Effect of section.*—See Preliminary Note, *ante*.

*House.*—It will be noted that this word is used in three different significations in this section. In sub-s. (1) it is used in the sense of the definition in s. 25 (2), *post* ; in sub-ss. (2) and (3) it is used in this sense as delimited by sub-paras. (a) to (d) of sub-s. (1), *supra* ; and in sub-s. (4) it is used as so delimited with the further delimitation that it shall refer to a house in respect of which the Minister of Health has determined that contributions are to be paid under this section.

*Passing of this Act.*—April 18, 1946.

*Local authority.*—For definition, see s. 25 (1), *post*.

*The Minister.*—This means the Minister of Health (see s. 1 (1), *ante*).

*Annual Exchequer contributions.*—See s. 1 (1), *ante*.

*Annual rate fund contributions.*—See ss. 5, 6 and 7, *ante*.

*County council contributions.*—See s. 8 (1), *ante*.

*Housing (Financial Provisions) Act, 1938.*—31 Halsbury's Statutes 569.

**11. Contributions for certain houses provided by housing associations since 1939.**—(1) Where a house—

- (a) is provided by a housing association, otherwise than in pursuance of an arrangement made by a local authority with the association under section ninety-four of the principal Act ; and



- (b) is a house for the construction of which building operations began between the end of December, nineteen hundred and thirty-nine, and the passing of this Act, otherwise than in pursuance of a contract made with a building contractor before the said end of December ;

then, if the Minister, with the consent of the Treasury, thinks fit so to determine, the like annual exchequer contributions shall be paid to the association in respect of the house as would, in the opinion of the Minister, have been payable by virtue of the last preceding section in respect thereof to the local authority in whose area the house is situated if the house had been provided by that authority in the exercise of their powers to provide housing accommodation. [451]

(2) If the Minister is satisfied that, after taking account of any contributions payable in respect of any such house under the preceding subsection, the house cannot, without loss to the association concerned, be let at a rent within the means of the actual or potential tenants of the house, the Minister may, with the consent of the Treasury, pay to the association, for each period in respect of which a contribution is payable under the preceding subsection, an additional contribution under this subsection :

Provided that the amount of any contribution payable under this subsection shall not exceed what in the opinion of the Minister would have been the amount of each annual rate fund contribution which would have been payable in respect of the house if the condition specified in the preceding subsection had been fulfilled. [452]

*Effect of section.*—See Preliminary Note, *ante*.

*Principal Act.*—The Housing Act, 1936 (29 Halsbury's Statutes 565) (see s. 25 (1), *post*). For s. 94 thereof, see *ibid.* 636.

*Passing of this Act.*—April 18, 1946.

*The Minister.*—This means the Minister of Health (see s. 1 (1), *ante*).

*Annual Exchequer contributions.*—See s. 1 (1), *ante*.

*Annual rate fund contributions.*—See ss. 5, 6 and 7, *ante*.

*Definitions.*—For definitions of "housing association," "local authority" and "tenant," see s. 25 (1), *post* ; for "house," see s. 25 (2), *post*.

**12. Contributions in respect of temporary housing accommodation provided in certain war buildings.**—(1) Where, whether before or after the passing of this Act, a local authority have, for the purpose of discharging any of their duties under Part V of the principal Act, acquired the right to use any government war buildings, and the Minister has approved for the purposes of this section arrangements made by the authority for using those buildings, whether with or without alterations, for providing temporary housing accommodation, then—

- (a) if the Minister estimates that the authority will incur a loss in any year in respect of the provision of housing accommodation in pursuance of the arrangements, the Minister shall make to the authority a contribution for that year of a sum equivalent to the estimated loss ; and
- (b) if the Minister estimates that the authority will make a profit in any year in respect of the provision of housing accommodation in pursuance of the arrangements, the authority shall pay to the Minister in respect of that year a sum equivalent to the estimated profit. [453]

(2) For the purposes of any such estimate, there shall be deemed to accrue to a local authority, in respect of any house provided by the authority in pursuance of any such arrangements as aforesaid, in addition to any other income accruing from the house—

- (a) where the authority are the council of a rural district, the sum of six pounds a year ; and

(b) in any other case, the sum of eight pounds a year. [454]

(3) Where any buildings are demolished by a local authority upon ceasing to be used for the purpose of providing housing accommodation in pursuance of such arrangements as aforesaid, then—

(a) the Minister shall pay to the authority the cost of demolition; and

(b) any sums realised by the authority by the disposal of materials derived from the demolished buildings shall be paid by the authority to the Minister. [455]

(4) In this section the expression "government war building" means any building which constitutes government war works as defined by section fifty-nine of the Requisitioned Land and War Works Act, 1945, and the expression "alterations" includes adaptations, enlargements and improvements. [456]

*Effect of section.*—See Preliminary Note, *ante*.

*Local authority.*—For definition, see s. 25 (1), *post*.

*Principal Act.*—The Housing Act, 1936 (29 Halsbury's Statutes 565) (see s. 25 (1), *post*). For Part V thereof, see *ibid.* 619.

*Government war building.*—For definition, see sub-s. (4), *supra*, and the Requisitioned Land and War Works Act, 1945, s. 59 (38 Halsbury's Statutes 623).

*The Minister.*—This means the Minister of Health (see s. 1 (1), *ante*).

*Sub-s. (2).*—The amounts deemed to accrue to local authorities under this sub-section are the same respectively as such local authorities pay under provisions made under s. 3 (1) of the Housing (Temporary Accommodation) Act, 1944 (37 Halsbury's Statutes 415), in respect of temporary houses provided under that Act.

#### *Provisions as to contributions under other Acts*

**13. Amendment of section 3 of 1 & 2 Geo. 6, c. 16.**—(1) Section three of the Housing (Financial Provisions) Act, 1938 (which provides for the making by the Minister of contributions in respect of agricultural housing accommodation provided by persons other than local authorities), shall, in relation to a new house completed in pursuance of arrangements made under that section after the passing of this Act, have effect as if, in sub-section (1) thereof, for the words "not exceeding ten pounds" there were substituted the words "not exceeding fifteen pounds". [457]

(2) In relation to arrangements made under the said section three after the passing of this Act, the section shall have effect as if, for paragraph (b) of subsection (1) thereof, there were substituted the following paragraph:—

"(b) if let, is let at a rent not exceeding such rent as in the opinion of the council it would have been appropriate for the council to charge if the house had been provided by the council." [458]

(3) In respect of a new house completed after the passing of this Act, no contribution shall be payable under the said section three for any year during the whole or any part of which the house has been occupied by a person who was not the owner or a tenant of the house. [459]

*Effect of section.*—See Preliminary Note, *ante*.

*Housing (Financial Provisions) Act, 1938, s. 3.*—31 Halsbury's Statutes 572.

*Definitions.*—For definitions of "owner" and "tenant," see s. 25 (1), *post*; for "house," see s. 25 (2), *post*.

**14. Effect on certain contributions of a house ceasing to be available as such.**—(1) Where under any of the provisions specified in the Second Schedule to this Act (being provisions in pursuance of which payments may be made by the Minister or by local authorities by way of financial assistance in connection with the provision or improvement of housing accommodation) a periodical payment would, apart from this section, have fallen to be made after the passing of this Act in respect of a house to any person other than a local authority, that payment shall not be made if, before the making thereof,

the Minister is satisfied that, during the whole or the greater part of the period to which the payment is referable, the house has not been available as a dwelling fit for habitation :

Provided that nothing in this subsection shall prevent the making of a periodical payment in respect of any house if the Minister is satisfied that the house could not with reasonable diligence have been made available, during the whole or the greater part of the period to which the payment is referable, as a dwelling fit for habitation.

Any question as to the period to which any payment is referable shall be determined for the purposes of this subsection by the Minister. [460]

(2) Where the power or duty of a local authority to make any payment is wholly or partly discharged by virtue of the preceding subsection, the Minister may make such consequential reductions as he thinks appropriate in any sum payable by him to the authority. [461]

(3) In this section the expression " local authority " includes any authority which is a local authority for the purposes of the Housing (Rural Workers) Acts, 1926 to 1942. [462]

*The Minister.*—This means the Minister of Health (see s. 1 (1), *ante*).

*Local authority.*—For definition, see sub-s. (3), *supra*, and the Housing (Rural Workers) Act, 1926, s. 5 (13 Halsbury's Statutes 1168).

*Passing of this Act.*—April 18, 1946.

*House.*—For definition, see s. 25 (2), *post*.

### 15. Effect on certain contributions of a house vesting in a local authority.

—(1) Where a house which has been provided by a housing association under arrangements made with a local authority under section ninety-four of the principal Act becomes vested in that authority after the passing of this Act—

(a) no further sums shall, after the time of the vesting, become payable by the Minister or by the authority in respect of the house under subsection (3) of the said section ninety-four ; and

(b) the Minister may, if he thinks fit, pay to the authority a sum equivalent to any contribution which would, after the said time, have become payable to the authority in respect of the house under the said subsection (3) if all conditions precedent to the payment of that contribution had been at all material times observed. [463]

(2) Where a house which has been provided under arrangements made by a local authority under section three of the Housing (Financial Provisions) Act, 1938, becomes vested in that authority after the passing of this Act—

(a) no further sums shall, after the time of the vesting, become payable by the Minister or by the authority in respect of the house under the said section three ; and

(b) whether the conditions specified in paragraphs (a), (b) and (c) of subsection (1) of the said section three are observed or not, the Minister may, if he thinks fit, pay to the authority a sum equivalent to any contribution which would, after the said time, have become payable by him to the authority in respect of the house if all conditions precedent to the payment of that contribution had been at all material times observed. [464]

*Principal Act.*—The Housing Act, 1936 (29 Halsbury's Statutes 565) (see s. 25 (1), *post*). For s. 94 thereof, see *ibid.* 636. This section empowers a local authority with the approval of the Minister of Health to make arrangements with a housing association for the provision of accommodation for the working-class population.

*The Minister.*—This means the Minister of Health (s. 1 (1), *ante*).

*Passing of this Act.*—April 18, 1946.

*Housing (Financial Provisions) Act, 1938, s. 3.*—31 Halsbury's Statutes 572. This section empowers a local authority with the approval of the Minister of Health to make arrangements with any person for the provision of accommodation for the agricultural population.

*Definitions.*—For definition of " house," see s. 25 (2), *post* ; for " housing association," see s. 25 (1), *post*.

*Review of contributions*

**16. Review of contributions.**—(1) Subject to the provisions of this section, the Minister may from time to time by order provide, in relation to new houses completed after such date, not being earlier than the thirtieth day of June, nineteen hundred and forty-seven, as may be specified in the order—

- (a) for reducing all or any of the standard amounts of the annual exchequer contribution ;
- (b) for reducing all or any of the normal amounts of the annual rate fund contribution ;
- (c) for reducing the amount of county council contributions ;
- (d) for reducing the number of years for which any such contributions are to be paid. [465]

(2) The provisions of any such order shall be such as to secure, except in relation to houses for which the standard amount of the annual exchequer contribution is the special standard amount, or that amount as increased under section six of this Act, that the proportion which the standard amount of the annual exchequer contribution for any house bears to the normal amount of the annual rate fund contribution for that house is not more than three to one and is not less than two to one. [466]

(3) Before the Minister makes an order under this section, a draft thereof shall be laid before the Commons House of Parliament, and the order shall not be made unless that House, within the period of forty days beginning with the day on which the draft is laid before it, passes a resolution approving the draft.

In reckoning any such period of forty days, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which the Commons House is adjourned for more than four days. [467]

(4) No draft of an order under this section shall be laid before the Commons House of Parliament before the first day of January, nineteen hundred and forty-seven. [468]

(5) The Minister shall, immediately after the beginning of December in the year nineteen hundred and forty-six, consider whether it is expedient that an order should be made under this section, and, if after such consideration he is of opinion that no such order should for the time being be made, he shall lay before the Commons House of Parliament a report stating his decision. [469]

(6) Before laying a draft of an order under this section before the Commons House of Parliament, the Minister shall consult with such associations of local authorities as appear to him to be concerned and with any local authority with whom consultation appears to him to be desirable. [470]

(7) Section one hundred and nine of the principal Act and section five of the Housing (Financial Provisions) Act, 1938, are hereby repealed ; and this repeal shall be deemed to have taken effect as from the end of September, nineteen hundred and forty-four. [471]

*Effect of section.*—See Preliminary Note, *ante*. It will be noted that the provisions of this section do not apply to the reduced amount of annual rate fund contribution payable under s. 7, *ante*.

*The Minister.*—This means the Minister of Health (see s. 1 (1), *ante*).

*Standard amounts of the annual Exchequer contribution.*—See s. 1, *ante*, and note thereto.

*Normal amounts of the annual rate fund contribution.*—See s. 5, *ante*, and note thereto.

*County council contributions.*—See s. 8 (1), *ante*.

*Special standard amount of the annual Exchequer contribution.*—See s. 3, *ante*.

*Principal Act.*—The Housing Act, 1936 (29 Halsbury's Statutes 565) (see s. 25 (1), *post*). For s. 109 thereof, see *ibid.* 645. This section provided for reviewing contributions payable under that Act.

*Housing (Financial Provisions) Act, 1938, s. 5.*—31 Halsbury's Statutes 573. This section amended s. 109 of the Housing Act, 1936, and is accordingly repealed together with the latter section.

*Grants for houses not constructed by traditional methods*

**17. Grants towards the cost of providing houses constructed by special methods approved by the Minister.**—(1) Where, with a view to expediting the provision of housing accommodation, the Minister approves for the purposes of this section any method of constructing houses which differs from the traditional methods, and—

- (a) at any time before the end of December, nineteen hundred and forty-seven, a local authority submit to the Minister proposals for providing, in the exercise of their functions under Part V of the principal Act, a new house constructed by a method so approved ;
- (b) the Minister is satisfied that the cost to the authority of providing the house will exceed the cost which the authority would incur in providing on the same site a house of similar size constructed by a traditional method, and that the amount of the excess will be substantial ; and
- (c) the Minister, with the consent of the Treasury, determines that the authority ought to receive a grant under this section towards defraying the excess, and determines the amount of the grant which is appropriate for that purpose ;

then, upon the completion of the house, the Minister shall make to the authority in respect of the house a grant of the amount so determined.

In the following provisions of this Act the expression “ capital grant ” means a grant payable under this section. [472]

(2) The provisions of this section shall be without prejudice to any power or duty of the Minister to make any payment in respect of a house under any other provision of this Act. [473]

*Effect of section.*—See Preliminary Note, *ante*.

*The Minister.*—This means the Minister of Health (see s. 1 (1), *ante*).

*Principal Act.*—The Housing Act, 1936 (29 Halsbury's Statutes 565) (see s. 25 (1), *post*). For Part V thereof, see *ibid.* 619.

*Definitions.*—For definition of “ house,” see s. 25 (2), *post* ; for “ local authority,” see s. 25 (1), *post*.

*Housing associations*

**18. Provisions with respect to housing associations established in pursuance of arrangements made by the Minister.**—(1) If, in pursuance of arrangements made by the Minister, there is established after the passing of this Act a housing association whose objects include both the construction of houses and the provision and management of houses, the following provisions of this section shall have effect with respect to that association, and any such association is hereafter in this section referred to as “ the association.” [474]

(2) If the Minister is satisfied that the total net expenditure of the association in any year, calculated in such manner as he may with the consent of the Treasury determine, being expenditure necessarily incurred by the association—

- (a) for the purpose of the execution of arrangements made with the association under section ninety-four of the principal Act ; or
- (b) for the purpose of the execution of work which the association have been employed by a local authority to undertake in connection with the provision by the authority of housing accommodation ;

cannot be met without the provision of assistance under this subsection, he may, with the approval of the Treasury, make such payments by way of grant to the association as he may determine to be necessary for the purpose of enabling them to meet that expenditure :

Provided that no payment shall be made by the Minister under this

subsection in respect of any expenditure incurred by the association for the purpose of the execution of any arrangements for the provision of houses made with the association under the said section ninety-four unless, in respect of each house provided by the association under the arrangements, the association are entitled to receive, in addition to the sums payable by the Minister under subsection (3) of the said section ninety-four, a grant from the appropriate local authority of an amount not less than the annual rate fund contribution which, in the opinion of the Minister, would have been payable by the authority in respect of that house if the authority had, in the exercise of their powers to provide housing accommodation, provided the house themselves. [475]

(3) Subject to the provisions of this section, the Treasury may issue to the Minister, out of the Consolidated Fund of the United Kingdom or the growing produce thereof, such sums as are necessary to enable the Minister to make loans to the association for the purpose of enabling or assisting the association to defray—

- (a) any preliminary expenses incurred in connection with the establishment of the association ;
  - (b) any expenses incurred by the association for the purpose of the execution of arrangements made under section ninety-four of the principal Act ; or
  - (c) any expenses of the association in respect of work which the association have been employed by a local authority to undertake in connection with the provision by the authority of housing accommodation.
- [476]

(4) The power of the Treasury, under subsection (1) of section one of the Building Materials and Housing Act, 1945, to advance money to the Minister of Works out of the Consolidated Fund of the United Kingdom or the growing produce thereof shall include power, subject to and in accordance with the provisions of that section, to advance money to that Minister for the purpose of defraying his expenses in carrying out work on behalf of and at the request of the association, being—

- (a) work which the association have been employed by a local authority to undertake in connection with the provision by the authority of housing accommodation ; or
- (b) work in connection with the execution of arrangements made under section ninety-four of the principal Act. [477]

(5) The total amount issued by the Treasury under subsection (3) of this section, after deducting any sums which have been repaid, shall not at any time exceed fifteen million pounds. [478]

(6) For the purpose of providing sums to be issued under subsection (3) of this section, the Treasury may, at any time, if they think fit, raise money in any manner in which they are authorised to raise money under the National Loans Act, 1939 ; and any securities created and issued to raise money under this subsection shall be deemed for all purposes to have been created and issued under the National Loans Act, 1939. [479]

(7) The Minister shall, as respects each financial year in which sums are outstanding from the Exchequer in respect of money issued to him under subsection (3) of this section, prepare, in such form and manner as the Treasury may direct, an account of those sums.

Any account prepared under this subsection shall, on or before the thirtieth day of November next following the expiration of the financial year in question, be transmitted to the Comptroller and Auditor General, who shall examine and certify the account and lay copies thereof, together with his report thereon, before Parliament. [480]

*Effect of section.*—See Preliminary Note, *ante*.

*The Minister.*—This means the Minister of Health (see s. 1 (1), *ante*).

*Passing of this Act.*—April 18, 1946.

*Principal Act.*—The Housing Act, 1936 (29 Halsbury's Statutes 565) (see s. 25 (1), *post*). For s. 94 thereof, see *ibid.* 636.

*Building Materials and Housing Act, 1945, s. 1.*—38 Halsbury's Statutes 370.

*National Loans Act, 1939.*—32 Halsbury's Statutes 1235.

### *Miscellaneous and general*

#### **19. Duty of local authorities to reserve houses for agricultural population.**

—(1) Where any annual exchequer contributions to which this section applies are payable to the council of a county district, the council shall secure that a number of houses equal to the number of houses in respect of which such contributions are payable to the council is reserved for members of the agricultural population, except in so far as the demand for housing accommodation in the district on the part of members of the agricultural population can be satisfied without such reservation. [481]

(2) This section applies to any annual exchequer contribution the amount of which has been determined on the assumption that the house in respect of which it is payable was provided by way of housing accommodation required for the agricultural population of the county district concerned. [482]

(3) Where, on the ground that the council of a county district have failed to discharge the duties imposed on them by this section, the Minister so exercises his powers under section one hundred and thirteen of the principal Act that either—

- (a) the amount of the annual exchequer contribution payable to the council in respect of a house for any year is reduced ; or
- (b) the annual exchequer contribution which would otherwise have been payable to the council in respect of a house for any year is not payable ;

no county council contribution shall be payable to the council in respect of that house for that year. [483]

*Effect of section.*—See Preliminary Note, *ante*.

*Annual Exchequer contributions.*—The annual Exchequer contributions to which this section applies are those of the "special standard amount" provided for in s. 3 (1), *ante*.

*County district.*—This is a non-county borough, urban district or rural district (Local Government Act, 1933, s. 1 (1) ; 26 Halsbury's Statutes 306).

*The Minister.*—This means the Minister of Health (see s. 1 (1), *ante*).

*Principal Act.*—The Housing Act, 1936 (29 Halsbury's Statutes 565) (see s. 25 (1), *post*). For s. 113 thereof, see *ibid.* 648. This section empowers the Minister of Health to withhold Exchequer contributions from defaulting authorities.

*County council contribution.*—See s. 8 (1), *ante*.

*Definitions.*—For definition of "house," see s. 25 (2), *post* ; for "agricultural population," see s. 25 (1), *post*.

**20. Power of Minister to withhold or reduce contributions in case of default.**—Without prejudice to the powers of the Minister under section one hundred and thirteen of the principal Act, in a case where a local authority have failed to discharge their duty to make any contribution which they are required to make by virtue of the Housing Acts, to reduce the amount of any Exchequer contribution, or to suspend or discontinue the payment of any such contribution, subsection (4) of section six of the Housing (Financial Provisions) Act, 1938, is hereby repealed. [484]

*The Minister.*—This means the Minister of Health (see s. 1 (1), *ante*).

*Principal Act.*—The Housing Act, 1936 (29 Halsbury's Statutes 565) (see s. 25 (1), *post*). For s. 113 thereof, see *ibid.* 648.

*Local authority.*—For definition, see s. 25 (1), *post*.

*Housing Acts.*—For definition, see the Housing Act, 1936, s. 188 (29 Halsbury's Statutes 680) as enlarged by para. 1 of the Third Schedule to this Act, *post*.

*Exchequer contribution.*—For definition, see the Housing Act, 1936, s. 188 (29 Halsbury's Statutes 680).



*Housing (Financial Provisions) Act, 1938, s. 6 (4).*—31 Halsbury's Statutes 574. This sub-section extended the provision of s. 114 of the principal Act making a local authority's right to receive an Exchequer contribution conditional upon payment of the contribution from the rate fund.

**21. Amendment of law as to housing accounts.**—(1) Where a house is for the time being vested in a local authority by reason of the default of any person in carrying out the terms of any arrangements under which assistance in respect of the provision, reconstruction or improvement of the house has been given under any enactment relating to housing, the house shall be deemed for the purposes of section one hundred and twenty-eight of the principal Act (which specifies the houses with respect to which a local authority are required to keep a Housing Revenue Account) to be a house which has been provided by the authority under Part V of the principal Act. [485]

(2) A local authority who are required to keep a Housing Revenue Account shall carry to the credit of that account amounts equal to any sums paid to the authority under—

(a) paragraph (a) of subsection (1) of section one of the Housing, &c. Act, 1923 ;

(b) subsection (1) of section four of the Housing (Rural Workers) Act, 1926 ; or

(c) section nine of the Housing (Financial Provisions) Act, 1938 ;

in respect of a house which, at the time when the payment is made, is vested in the authority. [486]

(3) Where any surplus is shown in a Housing Revenue Account at the end of any financial year, the local authority shall have power to apply that surplus, in whole or in part, to any purpose which the Minister may approve, being a purpose connected with the provision of housing accommodation ; and so much only of any surplus as remains after effect has been given to the preceding provisions of this subsection shall be available for application in accordance with section one hundred and thirty of the principal Act (which relates to the disposal of surpluses shown in Housing Revenue Accounts). [487]

(4) Section one hundred and thirty-one of the principal Act (which requires certain local authorities to carry sums to the credit of the Housing Repairs Account in each financial year) shall, in relation to the financial year beginning on the first day of April, nineteen hundred and forty-six and each subsequent financial year, have effect as if for the words “ an amount equal to fifteen per cent. of the annual rent (exclusive of any amount included therein in respect of rates or water charges) ” there were substituted the words “ four pounds ”. [488]

(5) A local authority shall not, after the passing of this Act, be required by virtue of section one hundred and thirty-two of the principal Act to keep a Housing Equalisation Account unless they think it desirable to do so, and accordingly—

(a) in relation to periods after the passing of this Act, subsection (1) of the said section shall have effect as if after the word “ shall ”, where that word first occurs in the subsection, there were inserted the words “ if they think it desirable ”, and as if after the word “ shall ”, where that word secondly occurs in the subsection, there were inserted “ if they keep such an account ” ; and

(b) subsection (2) of the said section is hereby repealed. [489]

(6) Where a local authority close their Housing Equalisation Account, they shall carry to the credit of their Housing Revenue Account any sums

standing to the credit of their Housing Equalisation Account when it is closed. [490]

*The Minister.*—This means the Minister of Health (see s. 1 (1), *ante*).

*Principal Act.*—The Housing Act, 1936 (29 Halsbury's Statutes 565) (see s. 25 (1), *post*). For s. 128 thereof, see *ibid.* 654; for Part V, *ibid.* 619; for s. 130, *ibid.* 656; for ss. 131, 132, *ibid.* 657.

*Local authorities required to keep a Housing Account.*—i.e., the local authorities for the purposes of Part V of the Housing Act, 1936 (29 Halsbury's Statutes 619).

*Housing, etc., Act, 1923, s. 1.*—13 Halsbury's Statutes 984.

*Housing (Rural Workers) Act, 1926, s. 4.*—13 Halsbury's Statutes 1167.

*Housing (Financial Provisions) Act, 1938, s. 9.*—31 Halsbury's Statutes 576.

*Sub-s. (3).*—Section 130 (1) of the Housing Act, 1936 (29 Halsbury's Statutes 656), provides that at the end of any financial year a surplus in the Housing Revenue Account of a local authority may be carried forward, and sub-s. (2) provides that at the end of each fifth year it may be carried forward or transferred to the Housing Repairs Account. This sub-section adds a third way of applying it, viz., for any purpose approved by the Minister of Health being a purpose connected with the provision of housing accommodation.

*Sub-s. (4).*—The change effected by this sub-section is due to the fact that the calculation of the amount to be transferred to the Housing Repairs Account by reference to a percentage of the rent, was found unsatisfactory (*per* the Minister of Health; 421 H. of C. Official Report, March 26, 1946, col. 335).

*Sub-s. (5).*—To meet difficulties of calculation due to the fact that while Exchequer and county council contributions under previous housing legislation were generally payable only for forty years, the loans raised by a local authority normally ran for sixty years, s. 132 of the Housing Act, 1936 (*supra*), provided for the keeping by local authorities of Housing Equalisation Accounts. As under this Act Exchequer contributions will usually be for sixty years provision is made for closing these accounts.

*Definitions.*—For definition of "house," see s. 25 (2), *post*; for "local authority," see s. 25 (1), *post*.

**22. Provision of housing accommodation in Isles of Scilly.**—(1) Without prejudice to his powers under section two hundred and ninety-two of the Local Government Act, 1933, the Minister may, upon the application of the council of the Isles of Scilly, by order confer or impose upon that council such functions relating to the provision of housing accommodation in the Isles of Scilly as the Minister thinks appropriate. [491]

(2) An order made under this section may provide for the making by the Minister and by the said council of contributions in respect of houses provided in pursuance of such an order. [492]

(3) An order made under this section may contain such incidental and consequential provisions, including provisions conferring powers or imposing duties on the said council, as the Minister thinks necessary. [493]

(4) An order made under this section may be revoked or varied by a subsequent order made by the Minister on the application of the said council. [494]

(5) Any order made under this section shall be laid before Parliament immediately after it has been made, and if either House of Parliament, within the period of forty days beginning with the day on which any such order is laid before it, resolves that the order be annulled, the order shall cease to have effect, but without prejudice to the validity of anything previously done thereunder or to the making of a new order.

In reckoning any such period of forty days, no account shall be taken of any time during which Parliament is dissolved or prorogued, or during which both Houses are adjourned for more than four days. [495]

(6) Section one of the Rules Publication Act, 1893, shall not apply to any such order. [496]

*Effect of section.*—See Preliminary Note, *ante*.

*Local Government Act, 1933, s. 292.*—26 Halsbury's Statutes 460. This section provides for the application of that Act to the Isles of Scilly.

*The Minister.*—This means the Minister of Health (see s. 1 (1), *ante*).

*Rules Publication Act, 1893, s. 1.*—18 Halsbury's Statutes 1016. The Act was repealed by s. 12 of the Statutory Instruments Act, 1946 (39 Halsbury's Statutes 789), which will come into operation on a date to be appointed by Order in Council. Sub-s. (6), *supra*, was inserted

to avoid the necessity of publishing notice of Orders made under the present Act in the London Gazette in accordance with s. 1 (4) of the Rules Publication Act, 1893.

Under this section the Minister has made the Isles of Scilly (Housing) Order, 1946 (S. R. & O., 1946, No. 2105).

**23. Expenses and receipts of Minister.**—(1) All sums payable by the Minister under this Act, including any sum payable by the Minister by virtue of an order made under the last preceding section, but excluding any sum payable by the Minister as a loan, shall be defrayed out of moneys provided by Parliament. [497]

(2) All sums received by the Minister under this Act, and any sums received by him by way of interest on or repayment of any loan made out of money issued to him by the Treasury under this Act, shall be paid into the Exchequer. [498]

(3) Any sums received by the Minister by way of interest on or repayment of any such loan as aforesaid and paid into the Exchequer under the last preceding subsection shall be issued out of the Consolidated Fund of the United Kingdom at such times as the Treasury may direct and shall be applied by the Treasury as follows—

- (a) so much thereof as represents principal shall be applied in redeeming or paying off debt of such description as the Treasury think fit; and
- (b) so much thereof as represents interest shall be applied to the payment of interest which would, apart from this paragraph, have fallen to be paid out of the permanent annual charge for the National Debt. [499]

*The Minister.*—This means the Minister of Health (see s. 1 (1), *ante*).

**24. Adaptations of principal Act.**—The provisions of the principal Act specified in the Third Schedule to this Act shall have effect subject to the adaptations therein specified. [500]

*Effect of section.*—The adaptations of the principal Act are designed to bring its provisions into conformity with the provisions for Exchequer and rate fund contributions contained in this Act.

*Principal Act.*—The Housing Act, 1936 (29 Halsbury's Statutes 565) (see s. 25 (1), *post*).

**25. Interpretation.**—(1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say,—

- “agricultural population” has the meaning assigned to it by subsection (2) of section one hundred and fifteen of the principal Act;
- “block of flats” means a building which is a block of flats for the purposes of the Housing (Financial Provisions) Act, 1938;
- “housing association” has the meaning assigned to it by section one hundred and eighty-eight of the principal Act;
- “local authority” means any authority which is a local authority for the purposes of any provision of the Housing Acts, 1936 to 1944;
- “owner”, in relation to a house, means a person entitled to a freehold interest therein;
- “the principal Act” means the Housing Act, 1936;
- “street” includes any court, alley, passage or square, whether a thoroughfare or not, and includes a public highway;
- “tenant”, in relation to a house, means a person entitled to a leasehold interest therein, and the expression “leasehold interest” includes an interest subsisting under any tenancy. [501]

(2) In this Act the expression “house” includes any part of a building, being a part which is occupied or intended to be occupied as a separate dwelling, and, in particular, includes a flat:

Provided that where a building is designed for permanent use as a single dwelling, it shall be treated as a single house for the purposes of this Act notwithstanding that it is temporarily divided into two or more parts which are occupied or intended to be occupied as separate dwellings. [502]

(3) References in this Act to any enactment shall be construed as including references to that enactment as amended by any subsequent enactment, including this Act. [503]

*Housing Act, 1936.*—29 Halsbury's Statutes 565. For ss. 115 and 188 thereof, see *ibid.* 648, 680.

*Housing (Financial Provisions) Act, 1938.*—31 Halsbury's Statutes 569.

*Housing Acts, 1936 to 1944.*—The Housing Act, 1936 (29 Halsbury's Statutes 565); the Housing (Financial Provisions) Act, 1938 (31 Halsbury's Statutes 569); and the Housing (Temporary Provisions) Act, 1944 (37 Halsbury's Statutes 413).

**26. Short title, citation and extent.**—(1) This Act may be cited as the Housing (Financial and Miscellaneous Provisions) Act, 1946, and the Housing Acts, 1936 to 1944, and this Act may be cited together as the Housing Acts, 1936 to 1946.

(2) This Act shall not extend to Scotland or to Northern Ireland. [504]

*Housing Acts, 1936 to 1944.*—See note to s. 25, *ante*.

## SCHEDULES

### Sections 4 and 5

### FIRST SCHEDULE

#### PROVISIONS FOR ASCERTAINING THE VALUE OF CERTAIN SITES, AND THE AMOUNT OF CONTRIBUTIONS IN RESPECT OF FLATS ON SUCH SITES

#### PART I

1. For the purposes of this Act the cost of a site as developed shall be—

- (a) in the case of a site purchased by a local authority under any enactment relating to housing, the expenditure incurred by the authority in purchasing the site; and
  - (b) in any other case, the value of the site as certified by the Minister ;
- plus, in either case, a sum representing any such expenses as are specified in paragraph 2 of this Part of this Schedule.

2. The said expenses are—

- (a) any such expenses as in the opinion of the Minister are properly incurred for making the site suitable for the purpose of providing the houses to be provided thereon, being expenses incurred by the local authority in the construction or the widening of streets, the construction of sewers or the execution of any special works rendered necessary by the physical characteristics of the land ; and
- (b) any such expenses incurred in respect of other matters as the Minister, with the consent of the Treasury, may determine to be expenses properly forming part of the cost of making the site suitable for the said purpose.

3. In determining for the purposes of this Part of this Schedule the amount of any such expenses as aforesaid, the Minister shall have regard to any estimate of those expenses submitted to him by the local authority.

4. Where any such expenses as aforesaid have been incurred in relation to a site, the value of the site shall be taken for the purposes of this Part of this Schedule to be the value of the site in the condition in which it would be if those expenses had not been incurred. [505]

*Definitions.*—For definitions of "local authority" and "street," see s. 25 (1), *ante*; for "house," see s. 25 (2), *ante*.

## PART II

TABLE

<i>Cost per acre of site as developed.</i>	<i>Standard amount of annual exchequer contribution.</i>	<i>Normal amount of annual rate fund contribution.</i>
	£ s. d.	£ s. d.
More than £1,500 but not more than £4,000	28 10 0	9 10 0
More than £4,000 but not more than £5,000	30 0 0	10 0 0
More than £5,000 but not more than £6,000	30 15 0	10 5 0
More than £6,000 but not more than £8,000	31 10 0	10 10 0
More than £8,000 but not more than £10,000	33 15 0	11 5 0
More than £10,000 but not more than £12,000	35 5 0	11 15 0
	35 5 0,	11 15 0,
	increased by	increased by 10s.
	£1 10s. for each	for each
	additional £2,000,	additional £2,000,
	or part of £2,000,	or part of £2,000,
	in the cost per	in the cost per
	acre of the site	acre of the site
	as developed.	as developed.
More than £12,000 .. .. .		

[506]

## PART III

TABLE

<i>Cost per acre of site as developed.</i>	<i>Standard amount of annual Exchequer contribution.</i>	<i>Normal amount of annual rate fund contribution.</i>
	£ s. d.	£ s. d.
More than £1,500 but not more than £4,000	35 10 0	13 0 0
More than £4,000 but not more than £5,000	37 0 0	13 10 0
More than £5,000 but not more than £6,000	37 15 0	13 15 0
More than £6,000 but not more than £8,000	38 10 0	14 0 0
More than £8,000 but not more than £10,000	40 15 0	14 15 0
More than £10,000 but not more than £12,000	42 5 0	15 5 0
	42 5 0,	15 5 0,
	increased by	increased by
	£1 10s. for each	10s. for each
	additional £2,000,	additional £2,000,
	or part of £2,000,	or part of £2,000,
	in the cost per	in the cost per
	acre of the site	acre of the site
	as developed.	as developed.
More than £12,000 .. .. .		

[507]

Part II of this Schedule contains the Table of the amounts of Exchequer and rate fund contributions applicable to flats in blocks of flats, and to houses provided under a scheme of mixed development of flats and houses, falling within the provision of s. 4 (1) and (2), *ante*; see that section and s. 5 (5), *ante*. Part III contains a similar Table applicable where lifts have been installed in such blocks of flats; see ss. 4 (1), proviso and 5 (6), *ante*.

*Cost per acre of site as developed.*—See Part I of the First Schedule, *ante*.

*Standard amount of annual Exchequer contribution.*—See s. 1, *ante*, and note thereto.

*Normal amount of annual rate fund contribution.*—See s. 5, *ante*, and note thereto.

## Section 14

## SECOND SCHEDULE

PROVISIONS IN PURSUANCE OF WHICH FINANCIAL ASSISTANCE MAY BE GIVEN BY THE  
MINISTER OR BY LOCAL AUTHORITIES

Section nineteen of the Housing, Town Planning, etc., Act, 1919.

Section two of the Housing, &c., Act, 1923.

Section three of the Housing, &c., Act, 1923.

Sections one and two of the Housing (Rural Workers) Act, 1926.

Subsection (3) of section ninety-four of the Housing Act, 1936.

Section three of the Housing (Financial Provisions) Act, 1938.

[508]

*The Minister.*—This means the Minister of Health (see s. 1 (1), *ante*).

*Housing, Town Planning, etc., Act, 1919, s. 19.*—13 Halsbury's Statutes 958. This section was repealed, subject to savings, by s. 6 of the Housing, etc., Act, 1923 (13 Halsbury's Statutes 989).

*Housing, etc., Act, 1923, ss. 2, 3.*—13 Halsbury's Statutes 986.

*Housing (Rural Workers) Act, 1926, ss. 1, 2.*—13 Halsbury's Statutes 1162.

*Housing Act, 1936, s. 94.*—29 Halsbury's Statutes 636.

*Housing (Financial Provisions) Act, 1938, s. 3.*—31 Halsbury's Statutes 572.

## Section 24

## THIRD SCHEDULE

### ADAPTATIONS OF PRINCIPAL ACT

1. In the principal Act, the expression "the Housing Acts" shall, unless the context otherwise requires, be construed as including this Act.

2. For the purposes of the principal Act the expression "Exchequer contribution" shall include any sum, other than a capital grant, payable by the Minister to a local authority under this Act.

3. The following provisions of the principal Act, that is to say—

(a) subsection (2) of section eighty-nine (which relates to agreements by county councils for assisting rural district councils in providing housing accommodation);

(b) subsection (3) of section one hundred and sixty-nine (which relates to the transfer of the powers of rural district councils to county councils); and

(c) subsection (2) of section one hundred and seventy-two (which relates to the transfer to county councils of the powers of the councils of county districts other than rural districts);

shall have effect as if the references therein to section one hundred and five of that Act included references to the provisions of this Act relating to annual exchequer contributions.

4. In each of the said subsections, the expression "a local authority" shall mean, and shall be deemed always to have meant, the local authority whose powers are, by virtue of the agreement or order in question, exercisable by the county council.

5. The following provisions of the principal Act, that is to say—

(a) section eighty-six (which relates to the power of the Minister to impose conditions on the sale of houses by a local authority);

(b) subsection (1) of section one hundred and twenty-nine (which relates to the sums which are credited and debited to the Housing Revenue Account); and

(c) subsection (2) of section one hundred and thirty (which relates to the disposal of balances in the Housing Revenue Account);

shall have effect as if any reference in those provisions to the contributions referred to in the Eighth Schedule to the principal Act included a reference to annual rate fund contributions under this Act. [509]

*Principal Act.*—The Housing Act, 1936 (29 Halsbury's Statutes 565) (see s. 25 (1), *ante*). For ss. 86, 89, 105, 129, 130, 169, 172 and the Eighth Schedule, see *ibid.* 628, 630, 642, 654, 656, 672, 675 and 694.

*The Minister.*—This means the Minister of Health (see s. 1 (1), *ante*).

*Provisions of this Act relating to annual Exchequer contributions.*—These are ss. 1-8, 10, 11, 16, 19 and the First Schedule, *ante*.

*Annual rate fund contributions.*—See s. 5, *ante*.

## ORDERS, CIRCULARS AND MEMORANDA

### THE FURNISHED HOUSES (RENT CONTROL) REGULATIONS, 1946

*S. R. & O., 1946, No. 781*

*May 30, 1946*

The Minister of Health in exercise of the powers conferred upon him by section 8 of the Furnished Houses (Rent Control) Act, 1946, and of all other powers enabling him in that behalf, hereby makes the following regulations:—



## GENERAL

1. These regulations may be cited as the *Furnished Houses (Rent Control) Regulations, 1946*. [510]

2.—(1) In these regulations—

“the Act” means the *Furnished Houses (Rent Control) Act, 1946*;

“contract” means a contract to which the Act applies;

“the Tribunal” means the Tribunal appointed for the district in which the premises are situated.

(2) The *Interpretation Act, 1889*, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [511]

## TENURE OF OFFICE OF MEMBERS OF TRIBUNALS

3. The Chairman and other members of a Tribunal shall hold office during the pleasure of the Minister of Health. A member may resign office by sending a letter of resignation to the Minister of Health. [512]

## PROCEEDINGS BEFORE TRIBUNALS

4. Reference to a Tribunal shall be by written notice. The notice shall specify the address of the house or part of a house to which the contract relates, the names of the lessor and lessee, and the address of the lessor. The notice may be delivered at an office of the Tribunal, in which case it shall be deemed to have reached the Tribunal on the day when it is so delivered, or may be posted to the Tribunal, in which case it shall be deemed to have reached the Tribunal on the day when it would be delivered in the ordinary course of post. [513]

5. Where any reference is made to a Tribunal, the Tribunal shall, unless they refuse under section 2 (6) of the Act to entertain it, give notice in writing to each party to the contract informing him that he may within such time as the Tribunal may allow (not being less than seven days from the date of the notice) give notice to the Clerk of the Tribunal that he desires to be heard by them, or may send to the Clerk of the Tribunal representations in writing:

Provided that the Tribunal may extend the time stated in the notice. [514]

6.—(1) If any party to the contract informs the Clerk of the Tribunal that he desires to be heard the Tribunal shall give to each party not less than seven clear days' notice in writing of the time and place at which the parties will be heard.

(2) If the house to which the reference relates is one the general management whereof is vested in and exercisable by the local authority as housing authority, the said local authority shall be given an opportunity of being heard or, if they so desire, of submitting representations in writing. [515]

7. At any hearing before a Tribunal a party to the contract may appear in person or by counsel or a solicitor or by any other representative or may be accompanied by any person whom he may wish to assist him thereat. [516]

8.—(1) Subject to the provisions of these regulations the procedure at a hearing shall be such as the Tribunal may determine, and the Tribunal may if they think fit, and at the request of either party shall unless for some special reason they consider it undesirable, allow the hearing to be held in public.

(2) The Tribunal may postpone or adjourn the hearing from time to time as they think fit. [517]



9. The decision of the majority of a Tribunal shall be the decision of the Tribunal. The decision shall be in writing, signed by the Chairman, and shall be sent as soon as may be to the parties to the contract and to the local authority responsible for the registration of the decision. [518]

10. Where any notice is required or authorized by the Act or by these regulations to be given by the Tribunal it shall be sufficient compliance with the Act or the regulations if the notice is sent by post in a pre-paid letter addressed to the party for whom it is intended at his usual or last known address. [519]

#### INFORMATION TO BE GIVEN BY LESSORS

11. The particulars concerning which the lessor in a contract referred to a Tribunal may by notice be required to give information to the Tribunal under section 2 (1) of the Act shall be those set out in the first schedule to these regulations. [520]

#### REGISTER

12. The particulars to be furnished by the Tribunal to the local authority under section 3 (3) of the Act to be entered in the register kept for the purposes of the Act under section 3 (1) shall be those set out in the second schedule to these regulations.

The register shall be open to public inspection at the offices of the local authority during their normal hours of business. The fee for a certified copy of an entry given in accordance with the provisions of section 11 of the Act shall be the sum of one shilling. [521]

#### FIRST SCHEDULE

*Particulars concerning which lessors may by notice be required to give information*

1. The address of the house to which or to part of which the contract relates.
- 2.—(i) Whether the accommodation has been registered for the purpose of Defence Regulation 68CB, and  
(ii) whether it is let in accordance with the terms and conditions so registered.\*
3. The name of the lessee.
4. Total accommodation in the house.
5. Accommodation occupied or used by the lessee (a) exclusively, (b) in common with other persons.
6. Furniture provided by the lessor for the use of the lessee.
7. Services provided by the lessor for the use of the lessee.
- 8.—(i) (*Where the lessor is the owner*).—In what manner did the lessor become owner; at what date; if he bought the house, the price paid; and the amount of interest on any mortgage of the house.  
(ii) (*Where the lessor is not the owner*).—The rent payable by the lessor to his superior landlord in respect of (a) the house, or (b) that part of the house which is rented by him from the superior landlord.
9. Rates payable by the lessor in respect of (a) the house, and (b) the accommodation occupied by the lessee where this accommodation has been separately assessed for rates.
10. Payments contracted to be made by the lessee to the lessor, and if separate payments are made in respect of occupation, furniture, and services the separate payments in respect of each class.
11. Whether board is supplied, and if so the nature and amount of the board. [522]

\* *Note*.—If the accommodation let to the lessee has been registered under Defence Regulation 68CB and is let in accordance with the terms and conditions so registered the Furnished Houses (Rent Control) Act, 1946, does not apply.

## SECOND SCHEDULE

*Particulars to be entered in the register kept by a local authority*

1. Specification of the premises to which the contract referred to the Tribunal relates, stating also whether the contract relates to a part only of a house, and stating :—

- (a) accommodation of which the lessee is entitled to exclusive occupation ;
- (b) accommodation of which the lessee is entitled to the use in common with any other person.

2. Names and addresses of parties to the contract referred to the Tribunal.

3. Whether furniture is provided by the lessor for the use of the lessee, and, if so, whether the premises are furnished by the lessor fully, or in part, or to a slight extent.

4. Services provided by the lessor.

5. Whether board is supplied, and if so the nature and amount of the board.

6. Rent as approved or reduced or increased by the Tribunal.

7. Where the rent is approved, reduced or increased with respect to a limited period a statement of that period.

8. Date on which an entry is made in the register with regard to item 6 and, in cases to which it applies, item 7. [523]

\* \* \* \* \*

Circular 80/46

*To Housing Authorities (England and Wales).  
(County Councils, for information).*

MINISTRY OF HEALTH,  
WHITEHALL,  
LONDON, S.W.1.  
16th April, 1946.

SIR,

### PERMANENT PREFABRICATED HOUSES: OPERATION OF BUILDING BYELAWS

1. I am directed by the Minister of Health to refer to Circular No. 182/45 of the 16th October, 1945, and to say that, with a view to avoiding delay in approving proposals for the erection of permanent prefabricated houses, he has had under consideration the question of the application of building byelaws to the new materials and methods of construction employed in their production.

2. Some approved types may present no difficulty since they are unlikely to contravene the building byelaws in force in most districts, but other types may not, in some respects, satisfy the requirements of the byelaws.

3. The Minister realises that some amendment of the existing building byelaws, or the framing of new byelaws, may be necessary to meet the special conditions associated with prefabrication, but consideration of these matters will necessarily take time and it is of the utmost importance that the programme of construction should not be held up.

4. During the intervening period, therefore, he has decided to use the powers which he possesses under Section 138 (1) of the Housing Act, 1936, and where proposals are made by a local authority, outside the County of London, for the construction of permanent prefabricated houses of an approved type, which do not comply strictly with the building byelaws, he will be prepared, subject to all other requirements being satisfied, to approve, for the purpose of the said section, the plans and specifications for such proposals.

5. Applications for the Minister's approval under the section should be

submitted to the Principal Housing Officer (in Wales, the Welsh Board of Health) and should indicate specifically which byelaws are considered to be contravened and in what respects.

6. In the case of proposals of a similar nature by Metropolitan Borough Councils, the Minister will consult with the London County Council.

7. In certain areas prototypes of permanent prefabricated houses will be erected by the Ministry of Works, to be transferred subsequently to the local authority. In such cases the Minister will be prepared, so far as it may be necessary, to give a similar approval.

8. Technical details of certain approved types of permanent prefabricated buildings, indicating those features which appear to contravene the provisions of the Model Byelaws, will be supplied to local authorities who contemplate the erection of such buildings, in order to assist them to determine to what extent their own building byelaws will be contravened. [524]

\* \* \* \* \*

The Clerk to the Authority.

## INFANTS, CHILDREN AND YOUNG PERSONS

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### ORDERS, CIRCULARS AND MEMORANDA

#### THE CHILDREN AND YOUNG PERSONS (CONTRIBUTIONS BY LOCAL AUTHORITIES) REGULATIONS, 1946

*S. R. & O., 1946, No. 15*

*January 7, 1946*

In pursuance of the power conferred upon me by subsection (1) of section 90 of the Children and Young Persons Act, 1933, I, the Right Honourable James Chuter Ede, one of His Majesty's Principal Secretaries of State, hereby make the following Regulations :—

1. The contributions to be made by the local authority named in an approved school order to the expenses of the managers of an approved school throughout the time during which the person to whom the order relates is under the care of the said managers and not out on licence or under supervision shall be at the rate of thirty shillings a week :

Provided that this Regulation shall not apply to a local authority named in an approved school order where the managers having under their care the person to whom the order relates are that local authority or a joint committee upon which that local authority is represented. [525]

2. The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [526]

3.—(1) These Regulations may be cited as the Children and Young Persons (Contributions by Local Authorities) Regulations, 1946.

(2) These Regulations shall come into force on the first day of April, 1946.

(3) The Children and Young Persons (Contributions by Local Authorities) Regulations, 1945, are hereby revoked. [527]

\* \* \* \* \*

## THE CHILDREN AND YOUNG PERSONS (BOARDING OUT) RULES, 1946

*S. R. & O., 1946, No. 2083*

*December 10, 1946*

In pursuance of the power conferred upon me by subsection (2) of section 84 of the Children and Young Persons Act, 1933, I hereby make the following Rules :—

1. These Rules may be cited as the Children and Young Persons (Boarding Out) Rules, 1946. [528]

2. These Rules shall come into operation on the first day of January, 1947. [529]

3.—(1) In these Rules the following expressions have the meanings hereby respectively assigned to them, that is to say :—

“ boarding out ” means the placing of a foster child with a foster parent ;

“ foster child ” means a child or young person committed to the care of a local authority as a fit person under the provisions of the Act ;

“ foster parent ” means a husband and wife, or a woman, with whom a foster child is boarded out ;

“ local authority ” means, except where the context otherwise requires, the local authority to whose care as a fit person a foster child has been committed in accordance with the Act ;

“ the Act ” means the Children and Young Persons Act, 1933 ;

“ visitor ” means an officer, or a member of a committee of the local authority, who is appointed by the local authority for the purpose of assisting the authority in the performance of their functions under these Rules and, in particular, of exercising supervision over foster children and arranging for boarding them out.

(2) The Interpretation Act, 1889, shall apply to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament. [530]

4. The local authority shall, except as hereinafter provided, make arrangements for every person committed to their care to be boarded out as soon as possible with a suitable foster parent and, where within three months of the committal of any person to their care he has not been boarded out, the authority shall report forthwith to the Secretary of State the reasons therefor and apply for his consent to the alternative arrangements made. [531]

5. A foster child shall not be boarded out, or be allowed to remain boarded out,—

(a) with a person who has at any time been convicted of an offence which renders him unfit to be a foster parent, or

(b) in any environment which is likely to be detrimental to the child.

[532]

6. A foster child shall not be boarded out, or be allowed to remain boarded out, in a home where more than four other children or young persons are resident unless all the children and young persons resident in the home are brothers or sisters of the foster child. [533]

7. Before a foster child is boarded out, the local authority shall arrange for him to be examined by a medical officer and shall obtain from that officer a certificate as to the physical health and mental condition of the child and his suitability for boarding out. [534]

8.—(1) A foster parent shall, on receiving a foster child to be boarded out with him, be required by the local authority to sign in duplicate an agreement in the form set out in the Schedule to these Rules or in a form to the like effect.

(2) One copy of the agreement shall be retained by the foster parent and the other shall be kept by the local authority. [535]

9. A foster child shall not be boarded out, or be allowed to remain boarded out, with a foster parent who is a party to any contract for the purpose of insuring the payment to him of a sum of money upon the illness or death of the child. [536]

10. The local authority in selecting a person with whom a foster child is to be boarded out shall, if possible, select a person who is of the same religious persuasion as the foster child or who gives an undertaking that the foster child will be brought up in accordance with that religious persuasion. [537]

11. No foster child shall be boarded out unless the proposed foster parent and home have been visited by a visitor who, having been given full information about the child, has made due inquiry and furnished a report in writing to the local authority stating in particular whether—

- (a) the proposed foster parent is of good reputation ;
- (b) he is in a position to take proper care of the child ;
- (c) the sleeping and living accommodation and other domestic conditions are satisfactory ; and
- (d) the home is likely to suit the particular needs of the child. [538]

12.—(1) The local authority shall arrange for a visitor to visit and see the foster child and the home where he is boarded out—

- (a) within one month of his being placed in the home and thereafter as often as may be necessary, not being less often than once in every six weeks ; and
- (b) if a foster parent changes his address, within one month of the receipt by the local authority of notice of the new address :

Provided that where a foster child is over nine years of age and has been for not less than two years in the same foster home, which is proving suitable to his needs, the authority may decide to reduce the number of periodical visits to not less than one in every three months.

(2) The local authority shall require the visitor to make to them, after every visit to a foster child, a report in writing as to the health, welfare and conduct of the child, the condition of the home (including the sleeping and living accommodation), any complaint made by or concerning the child and whether the home appears suitable for the child. [539]

13.—(1) The local authority shall remove a foster child from his foster home if he is no longer suitably placed in that home.

(2) Where conditions in the home are found to be seriously detrimental to the health or safety of a foster child, the visitor shall have the power immediately to withdraw the child from the home. [540]

14.—(1) The local authority shall appoint a doctor to attend the foster child, and the name and address of the doctor shall be furnished to the foster parent.

(2) The local authority shall arrange with the doctor to examine the foster child within a month of their boarding him out and to make a report to them, and thereafter to examine the child at least once a year.

(3) The local authority shall arrange for the provision of all medical treatment ordered by the doctor and all necessary dental treatment.

(4) The local authority shall require the foster parent to report to them all cases of serious illness or accident to the foster child and to summon a doctor at once in all such cases. [541]

15. In the event of the death of the foster child the local authority shall arrange for the decent and proper burial of the child. [542]

16.—(1) In the case of a foster child over compulsory school age as defined in section 114 of the Education Act, 1944, the local authority shall make arrangements in consultation with the foster parent and the child for placing him in suitable employment and, where the child cannot conveniently continue to be boarded out with the foster parent, shall arrange for him to reside in a suitable hostel or lodgings except where he is placed in residential employment.

(2) Where a foster child has been placed in employment, the local authority shall arrange that a visitor shall visit him within one month of his taking employment and not less often thereafter than once in every three months and, if he continues to be boarded out with the foster parent, so much of Rule 12 of these Rules as requires a visit once in every six weeks shall cease to apply. [543]

17. The local authority may, and when required by the Secretary of State shall, appoint an officer to act as a visitor for the purpose of assisting the authority in the performance of their functions under these Rules and, in particular, of visiting foster children. [544]

18. Before the local authority boards out a foster child at a home outside the authority's area, the authority shall notify to the local authority in whose area the home is situated—

(a) the address of the proposed home at which the child will be boarded out, and

(b) unless they have made administrative arrangements with that other authority, that they will exercise supervision over the child ;

and any such administrative arrangements shall include arrangements for visiting the child, exercising supervision over the boarding out arrangements and over the welfare of the child, medical examination and medical care and the furnishing of all reports upon the child. [545]

19.—(1) The local authority shall keep a record of all foster children committed to their care and of any with respect to whom they have undertaken supervision under arrangements made under the last foregoing Rule.

(2) The local authority actually exercising supervision over a foster child and the home shall cause the date of every visit to, and examination of, the child and the effect of every report made under these Rules to be entered in their record. [546]

20.—(1) The local authority to whose care a foster child has been committed shall arrange for a review by an appropriate committee of the progress of the child, and such review shall be made at the expiration of three months from the date on which the child was committed to their care and thereafter at intervals of not more than six months.

(2) A note of the committee's consideration shall be made in the record of each foster child. [547]

21.—(1) The local authority shall furnish to the Secretary of State or to any of his officers, when so required, information regarding foster children committed to their care or under their supervision.

(2) Any foster child may be visited at any time by an inspector appointed under the Act by the Secretary of State and all records of the authority referring to the foster child shall be made available by them for the inspector's inspection. [548]

22. Where in the opinion of the local authority it is desirable in the special circumstances of any case that the provisions of one or more of the foregoing Rules should not apply, a special arrangement may be made with the prior consent of the Secretary of State. [549]

23. It shall not be necessary that agreements under these Rules shall be entered into by foster parents in respect of foster children who are boarded out with them at the date when the Rules come into operation. [550]

24. The Children and Young Persons (Boarding Out) Rules, 1933, are hereby revoked. [551]

\* \* \* \* \*

## SCHEDULE

Rule 8.

### AGREEMENT OF FOSTER PARENT

1. I, A.B. of....., do hereby agree with the Council of the County [County Borough] of..... that—

- (a) I will receive C.D. into my home and feed, clothe and look after him and bring him up as carefully and kindly as I would a child of my own ;
- (b) I will help him to become a good citizen, send him to school [work] † and to his church [chapel] †, and arrange for recreation suited to his age ;
- (c) I will look after his health and consult the doctor whenever the child is ill, and in the event of his serious illness or accident I will also notify the Council immediately ;
- (d) I will provide for the cleaning, mending and renewal of his clothing and its proper care ;
- (e) I will at all times permit any person authorised by the Home Office or by the Council to see the child, and his home and clothing, and I will attend to the advice of any such person ;
- (f) I will allow him to be removed from my home when required by any person so authorised ; and
- (g) I will notify the Council within two weeks if I change my address.

2. I make this agreement with the Council in consideration of my receiving the sum of .....

3. I acknowledge having received C.D. into my home on..... and agree that he brought with him the following articles of clothing and personal possessions :—

Signature of foster parent.....

Address .....

Date.....

[552]

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† Delete if not applicable.



# INTOXICATING LIQUORS

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## STATUTES

### LICENSING PLANNING (TEMPORARY PROVISIONS) ACT, 1946

(9 & 10 Geo. 6, c. 53)

#### PRELIMINARY NOTE

This Act, which received the Royal Assent on June 6, 1946, amends and extends in several respects the Licensing Planning (Temporary Provisions) Act, 1945 (38 Halsbury's Statutes 279). It does not make any fundamental changes in the 1945 Act, but attempts to remove certain difficulties which have arisen in the practical application of that Act. The general effect is to provide a greater degree of elasticity in the constitution of licensing planning areas and licensing planning committees.

S. 1 of the 1945 Act (*ibid.*) empowered the Home Secretary by order to declare a licensing district or two or more contiguous licensing districts which had received extensive war damage to be a licensing planning area, and s. 2 (*ibid.* 280) provided for the appointment for each licensing planning area of a licensing planning committee, consisting of a chairman appointed by the Secretary of State and of representatives in equal numbers of the licensing justices and the local planning authorities having jurisdiction in the area.

No difficulty has arisen over the constitution of licensing planning areas where the licensing districts are co-terminous with local government areas, but where this condition does not exist, administrative difficulties arise. An example occurs at Dover, the licensing district including not only the borough of Dover, but also, by virtue of s. 2 (5) of the Licensing (Consolidation) Act, 1910 (9 Halsbury's Statutes 987), the liberties of Dover as a Cinque Port. This means that, in accordance with s. 1 of the 1945 Act (38 Halsbury's Statutes 279), a Dover licensing planning area would have to include areas outside the borough, with consequent representation on the licensing planning committee of local planning authorities, plus equal numbers of licensing justices, who would be in no way concerned with Dover proper. Again, the borough of Beckenham lies partly within the Penge licensing district and partly within the Bromley licensing district, which means a multiplicity of representatives of local planning authorities on the licensing planning committee. In cases such as those above quoted, licensing planning committees, which it is desirable to have as compact as possible, will be large and cumbersome unless there is some relaxation of the requirement of s. 1 of the 1945 Act that a licensing planning area must consist of a licensing district or of two or more contiguous licensing districts. The necessary relaxation is provided by s. 1 of the present Act, which provides that where a county district, which includes a borough or an urban or rural district, forms part of a licensing district (as at Dover) or includes parts of more than one licensing district (as at Beckenham) the county district may be regarded as a unit in declaring a licensing planning area.

S. 3 (1) of the 1945 Act (38 Halsbury's Statutes 281) empowered the Home Secretary on the application of a licensing planning committee for any licensing planning area, and after consultation with other affected authorities, by order to include in the area any licensing district, whether contiguous or not, to which there had been or was likely to be a substantial transfer of population from districts already in the area. The object of this provision was to secure the transfer to the "overspill" area of licences which were needed there, but which were no longer needed in the original area. Here again the whole licensing district was treated as

a unit, and, although the "overspill" might be concentrated in one part of that district, for example, a new housing estate, it would, nevertheless, be necessary to add the whole district to the original area. This difficulty has been particularly apparent to the London Committee, which, in embracing numerous housing estates outside the County, would add enormously to its area if it had to bring in the whole of the licensing districts in which those housing estates were situated. S. 2 of the present Act meets this difficulty by empowering the Home Secretary to make orders adding parts of licensing districts to licensing planning areas so that a licensing planning committee may now apply for the addition to its area of an "overspill" area, without being obliged to take over the whole of the licensing district in which that area is situated.

- S. 10 (1) of the 1945 Act (*ibid.* 286) constituted the whole of the administrative County of London as a licensing planning area, and sub-s. (3) thereof empowered the Home Secretary by order to provide for the appointment of sub-committees of the licensing planning committee for that area. This was done, primarily, in order to provide for representation on the sub-committees of metropolitan borough councils which are not local planning authorities and are not, therefore, entitled to be represented on the main committee. Since, however, county district councils are local planning authorities, and therefore entitled to be represented on local planning committees, it was not at the time thought necessary to provide for the appointment of sub-committees outside London. It has, however, been found advisable to entrust to the London sub-committees certain duties with regard to applications for new licences and temporary removals which might equally well be entrusted to sub-committees elsewhere (see 140 H. of L. Official Report 584). S. 3 (1) of the present Act accordingly provides that an order under s. 1 of the 1945 Act constituting a licensing planning area, or under s. 3 (1), adding an "overspill" area to a licensing planning area, may provide for the appointment of sub-committees of the committee for the area, to consider such matters as may be specified in the order. Sub-s. (2) limits the voting rights of members added to a licensing planning committee outside London in respect of "overspill" areas, to matters affecting the "overspill" areas, and sub-s. (4) contains the same limitation as regards representatives of "overspill" areas added to the London licensing planning area. The Lord Chancellor pointed out, in moving the Second Reading of the Bill in the House of Lords (140 H. of L. Official Report 585), that these limitations are confined to voting on the main committee, and that if a sub-committee is set up for an "overspill" area the representatives of that area will have full rights as members of the sub-committee, and will also be able, as members of the main committee, to vote on all points which arise on the consideration by the main committee of the sub-committee's report. Sub-s. (3) provides for the revocation or variation of orders made under the section, and sub-s. (5) for the remuneration of secretaries of sub-committees.

This Act is to be construed as one with the 1945 Act, which is limited to expire within five years from the expiration of the Emergency Powers (Defence) Act, 1939 (32 Halsbury's Statutes 930), namely, on February 24, 1951, and which does not extend to Scotland or to Northern Ireland. [553]

*An Act to enable parts of licensing districts to be included in certain cases in licensing planning areas constituted under the Licensing Planning (Temporary Provisions) Act, 1945; and to make further provision as to licensing planning committees under the said Act and sub-committees thereof.* [554]  
[6th June, 1946.]

# 1. Constitution of licensing planning areas where county districts and licensing districts not co-terminous.—(1) Where—

- (a) a county district forms part only of a licensing district, or
  - (b) a county district includes parts of more than one licensing district,
- section one of the Licensing Planning (Temporary Provisions) Act, 1945 (hereafter in this Act referred to as the "Act of 1945"), which provides for the constitution of licensing planning areas consisting of a licensing district or two or more contiguous licensing districts, shall have effect as if the

references therein to licensing districts included references to any such county district as is mentioned in paragraph (a) or (b) of this subsection. [555]

(2) In accordance with the last foregoing subsection there shall be made in the Act of 1945 the amendments set out in the Schedule to this Act. [556]

*Effect of section.*—See Preliminary Note, *ante*.

*County district.*—County districts are administrative areas which may consist of non-county boroughs, urban districts, or rural districts. They are enumerated in Schedule I, Part I of the Local Government Act, 1933 (26 Halsbury's Statutes 470).

*Licensing district.*—A licensing district is a petty sessional division of a county, and a borough having a separate commission of the peace. (Licensing (Consolidation) Act, 1910, s. 2 (9 Halsbury's Statutes 986)).

*Licensing Planning (Temporary Provisions) Act, 1945, s. 1.*—38 Halsbury's Statutes 279.

## 2. Addition of parts of licensing districts to licensing planning areas.—

Subsection (1) of section three of the Act of 1945 (which authorises the addition to licensing planning areas of licensing districts to which, or to any part of which, there has been or is likely to be a substantial transfer of population or industry from the original area) shall apply to parts of licensing districts as it applies to licensing districts, and accordingly in the said section three after the word "district", wherever it occurs, there shall be inserted the words "or part thereof". [557]

*Effect of section.*—See Preliminary Note, *ante*.

*Act of 1945.*—The Licensing Planning (Temporary Provisions) Act, 1945 (38 Halsbury's Statutes 279). For s. 3 (1), see *ibid.* 281.

**3. Further provisions as to committees and sub-committees.**—(1) An order under section one of the Act of 1945 constituting a licensing planning area may provide, and an order under subsection (1) of section three thereof adding to a licensing planning area any licensing district or part thereof may vary the provisions of the original order constituting the area so as to provide—

- (a) for the appointment of sub-committees of the licensing planning committee for the area;
- (b) for authorising or requiring the reference by the committee to those sub-committees of such matters as may be specified in the order;

and the power of the Secretary of State under paragraph (b) of section eleven of the Act of 1945 to regulate procedure shall include power to make regulations with respect to the procedure (including quorum) of sub-committees appointed by virtue of this subsection. [558]

(2) An order under the said subsection (1) providing for the appointment, by the licensing justices and any local planning authority having jurisdiction in the district or part of a district added to the licensing planning area by the order, of additional members of the licensing planning committee may vary the provisions of the original order constituting the area so as to limit the right of the additional members to vote as members of the licensing planning committee to such matters relating to the added district or part of a district as may be specified in the order. [559]

(3) Any order of the Secretary of State may, in so far as it makes any provision authorised by the foregoing provisions of this section or by this subsection, be varied or revoked by a subsequent order of the Secretary of State made after consultation with the licensing planning committee for the area in question. [560]

(4) The foregoing provisions of this section shall not apply to any licensing planning area which consists of or includes the administrative County of

London, except the City of London, but the power of the Secretary of State by order under subsection (3) of section ten of the Act of 1945 to provide for the addition to sub-committees appointed under that subsection of persons nominated by authorities or bodies concerned with the area or any part thereof shall include power to direct that persons nominated by authorities or bodies concerned with a part of the area outside the administrative County of London shall be members of the licensing planning committee as well as of a sub-committee thereof, so however that the right of the said persons to vote as members of the committee may be limited to such matters relating to the part of the area in question as may be specified in the order. [561]

(5) A licensing planning committee shall have power, and shall be deemed always to have had power, to pay to the secretary of any sub-committee appointed under subsection (1) of this section, or under subsection (3) of the said section ten, such remuneration as may be approved by the Secretary of State, and to defray, in such circumstances as may be so approved, expenses incurred in travelling by the secretary of any such sub-committee. [562]

*Effect of section.*—See Preliminary Note, *ante*.

*Act of 1945.*—The Licensing Planning (Temporary Provisions) Act, 1945 (38 Halsbury's Statutes 279). For ss. 1, 3 (1), 10 (3), 11 (b), see *ibid.* 279, 281, 286, 287.

*Local planning authority.*—For definition, see s. 13 of the Licensing Planning (Temporary Provisions) Act, 1945 (*ibid.*, 287).

*Administrative County of London.*—For special provisions applicable, see s. 10 of the Licensing Planning (Temporary Provisions) Act, 1945 (*ibid.* 286).

*City of London.*—The City of London is a separate planning area and a separate licensing district, and the Licensing Planning (Temporary Provisions) Acts of 1945 and 1946 apply to it in the normal way.

*Regulations.*—See the Licensing Planning Regulations, 1946, S. R. & O., 1946, No. 1377, which amend the Licensing Planning Regulations, 1945, S. R. & O., 1945, No. 1063, consequent upon the extended powers in this Act to appoint sub-committees. (See p. 217, *post*.)

**4. Short title, construction and citation.**—This Act may be cited as the Licensing Planning (Temporary Provisions) Act, 1946, and shall be construed as one with the Act of 1945; and the Act of 1945 and this Act may be cited as the Licensing Planning (Temporary Provisions) Acts, 1945 and 1946. [563]

*Act of 1945.*—The Licensing Planning (Temporary Provisions) Act, 1945 (38 Halsbury's Statutes 279).

## Section 1

## SCHEDULE

### AMENDMENTS CONSEQUENTIAL ON SECTION 1

1. In section one, for the words "licensing district" there shall be substituted the word "district"; for the words "licensing districts" there shall be substituted the word "districts"; and at the end of the section there shall be added the following provision:—

"In the foregoing provisions of this section the expression 'district' means a licensing district, a county district forming part only of a licensing district, or a county district including parts of more than one licensing district; and references to the licensing justices for a district shall be construed, in relation to any such county district as aforesaid, as references to the licensing justices for any licensing district comprising, or part of which is included in, the county district."

2. In subsection (6) of section two (which provides that the clerk of the licensing justices shall by virtue of his office be the secretary of a licensing planning committee) for the words "for the licensing district constituting the area, or, where the area includes more than one licensing district" there shall be substituted the words "for the licensing district constituting or comprising the area, or, where the area includes the whole or parts of more than one licensing district".

3. In subsection (1) of section three for the words "districts theretofore included in the area" there shall be substituted the words "licensing districts or parts thereof theretofore included in the area". [564]

*Licensing Planning (Temporary Provisions) Act, 1945, ss. 1, 2 (6), 3 (1).*—38 Halsbury's Statutes 279, 280, 281.

## ORDERS, CIRCULARS AND MEMORANDA

## THE LICENSING PLANNING REGULATIONS, 1946

*S. R. & O., 1946, No. 1377*

*August 10, 1946*

These regulations amend the Licensing Planning Regulations, 1945 (S. R. & O., 1945, No. 1063) consequent upon the extended powers contained in s. 3 of the Licensing Planning (Temporary Provisions) Act, 1946, *ante*, of appointing sub-committees.

I hereby, in pursuance of section 11 of the Licensing Planning (Temporary Provisions) Act, 1945, as extended by subsection (1) of section 3 of the Licensing Planning (Temporary Provisions) Act, 1946, make the following Regulations :—

1. These Regulations may be cited as the Licensing Planning Regulations, 1946, and shall be construed as one with the Licensing Planning Regulations, 1945 (hereinafter called “the principal Regulations”). [565]

2. In these Regulations and in the principal Regulations as amended by these Regulations—

“the Act of 1946” means the Licensing Planning (Temporary Provisions) Act, 1946; and

“sub-committee” means a sub-committee appointed by virtue of an Order under section 10 of the Act or section 3 of the Act of 1946. [566]

3. In the proviso to Regulation 5 of the principal Regulations (which provides that in no case shall the quorum of a committee be less than five members) the word “three” shall be substituted for the word “five.” [567]

4. The provisions of Regulations 4 to 8 of the principal Regulations shall apply to the procedure of sub-committees :

Provided that any standing orders for the regulation of the proceedings and business of sub-committees shall be made, varied or revoked by the committee. [568]

5. At the end of Regulation 12 of the principal Regulations (which relates to the service of notices in connection with any application for a new licence, for a temporary premises certificate or for the extension of the period specified in a temporary premises certificate) there shall be added the following proviso :—

“Provided that, in so far as any of the foregoing matters have been referred to a sub-committee for the purpose of consideration and report in accordance with an order made under section 10 of the Act or section 3 of the Act of 1946, the committee shall not be required to serve the said notices, if the sub-committee, at least fourteen clear days before the date of the meeting at which they considered the matter, served notice of the date, time and place of the meeting on the authorities and persons specified in paragraphs (a), (b) and (c) and any other persons appearing to the sub-committee to be interested in the matter.” [569]

6. For Regulation 13 of the principal Regulations there shall be substituted the following Regulation—

“13. The committee or sub-committee, as the case may be, shall afford to any person on whom notice has been served under the last preceding Regulation and any other person appearing to them to be interested in the matter an opportunity of being heard either in person or by counsel, solicitor or other representative.” [570]

7. Regulations 19 and 20 of the principal Regulations and the definition of "the London Committee" in Regulation 2 of those Regulations are hereby revoked. [571]

8. In form number 1 of the Schedule to the principal Regulations (which sets forth the form of notice of submission of a committee's proposals to the Minister and refers to the period after the date of the notice within which objection may be submitted) for the words "within twenty-eight days from the date of this notice" there shall be substituted the words "not later than (insert date twenty-eight days from the date of first publication of the notice in a local newspaper)". [572]

\* \* \* \* \*

## JURORS AND JURY LISTS

ORDERS, CIRCULARS AND MEMORANDA:—

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### ORDERS, CIRCULARS AND MEMORANDA

#### THE JURORS BOOK REGULATIONS, 1946

*S. R. & O.*, 1946, No. 1069

*July 9, 1946*

In pursuance of the powers conferred upon me by the Elections and Jurors Act, 1945, I hereby make the following Regulations:—

**1. Citation and commencement.**—These Regulations may be cited as the Jurors Book Regulations, 1946, and shall come into operation on the first day of August, 1946. [573]

**2. Interpretation.**—(1) In these Regulations—

the expression "successful claimant" means a person who, upon a claim made in accordance with paragraph (c) of subsection (2) of section 21 of the Representation of the People Act, 1945, has established his right to be included in a civilian residence register, and includes a person who, upon an appeal arising out of any such claim, has, before the date in any year on which the registration officer in accordance with Regulation 3 of these Regulations supplies the relevant list of such persons to the rating authority, established his said right;

the expression "register appellant" means a person who has appealed against the determination by a registration officer of his claim to be included in the said register made in accordance with the said paragraph (c), and whose appeal has not been determined or abandoned by the said date in any year;

the expression "sheriff" includes any person charged with the return of jurors.

(2) The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [574]

**3. Supply of lists to rating authorities.**—(1) The registration officer shall, as soon in every year as he has, in accordance with paragraph (b) of subsection (2) of section 21 of the Representation of the People Act, 1945, published the list of persons who appear to him to be qualified to be registered in the civilian



residence register (which list is hereinafter in these Regulations referred to as "the electors list"), supply to the rating authority for every county borough, county district and metropolitan borough which is wholly or partly included in the registration area three copies of that list.

(2) On or before the fifteenth day of September in every year the registration officer shall supply as aforesaid—

- (a) three copies of a relevant list of successful claimants ; and
- (b) three copies of a relevant list of register appellants. [575]

**4. Marking of lists by rating authorities.**—(1) The rating authority shall mark each copy of the lists supplied in accordance with the last foregoing Regulation as follows, that is to say—

- (a) the letter "J" shall be placed in red ink after the name of any person who appears to the rating authority to be qualified and liable to serve as a juror ; and
- (b) the letter "S" shall in addition be placed in red ink before the letter "J" in the case of any such person who appears to the rating authority to be qualified to serve as a special juror ;

and any such mark so made by the rating authority in pursuance of this paragraph is hereinafter in these Regulations referred to as a "jury mark".

(2) On or before the fifteenth day of October in every year the rating authority shall return the lists marked as aforesaid to the registration officer. [576]

**5. Notices to persons marked as jurors.**—On the first occasion on which the name of any person is, in accordance with these Regulations, marked in any electors list in respect of a particular address, the registration officer shall on or before the fifteenth day of November despatch to each such person at the said address a notice in form "A" of the forms set out in the Schedule to these Regulations, or a form to the like effect, that his name has been marked as liable for jury service in respect of that address and that any application to have the jury mark removed must be received by the registration officer on or before the thirtieth day of November in that year. [577]

**6. Application of section 11 of Elections and Jurors Act, 1945, and Regulation 5 to successful claimants.**—Section 11 of the Elections and Jurors Act, 1945 (which relates to claims and appeals by persons marked in an electors list as jurors), and the last foregoing Regulation shall apply with respect to a jury mark in a list of successful claimants as they apply with respect to a jury mark in an electors list. [578]

**7. Applications to registration officer for removal of a jury mark.**—

(1) Any application by any person under the said section 11, or under the said section as applied by the last foregoing Regulation, for the removal of a jury mark after his name shall be made in writing so as to be received by the registration officer not later than the thirtieth day of November in that year, and shall state the address of the applicant in respect of which his name is so marked and the grounds on which the removal of the mark is claimed.

(2) The registration officer shall consider all applications made to him in accordance with the foregoing paragraph of this Regulation for the removal of jury marks and in any case where he is of opinion that the application should be allowed he shall remove the jury mark.

(3) After consideration of an application as aforesaid the registration officer shall, not later than the fifteenth day of December in that year, despatch notice of his decision to the applicant in form "B" of the forms set out in the Schedule to these Regulations, or a form to the like effect. [579]



**8. Deletion by registration officer of jury mark in the case of persons not included in the register.**—Where upon any objection made in accordance with paragraph (c) of subsection (2) of section 21 of the Representation of the People Act, 1945 (which relates to claims and objections with respect to electors lists), or upon an appeal arising out of any such objection, it has, before the date on which the registration officer in accordance with Regulation 9 of these Regulations transmits the electors list to the clerk of the council of the county, been decided that a person ought not to be included in a civilian residence register, the registration officer shall delete the jury mark after the name of that person in the electors list. [580]

**9. Transmission of lists to clerks of county councils.**—On or before the fifteenth day of December in every year the registration officer shall transmit two copies of the electors list and of the lists of successful claimants, marked and corrected as aforesaid, to the clerk of the council of the county. [581]

**10. Making up of jurors books.**—Not later than the twentieth day of December in every year the clerk of the council of the county shall cause to be made up in book form one copy of the lists, mentioned in the last foregoing Regulation, marked and corrected as aforesaid, and that copy shall, subject to any corrections and additional entries made therein in accordance with Regulations 11 and 12 of these Regulations, be the jurors book for the county for the year beginning the first day of January next following. [582]

**11. Deletion by sheriff of names from jurors book to give effect to decisions of courts on appeal.**—(1) Where upon an appeal arising out of an application to the registration officer under section 11 of the Elections and Jurors Act, 1945, or under the said section as applied by these Regulations, the court declares that the name of the applicant ought not to be marked as a juror in an electors list or list of successful claimants, the registration officer shall in writing inform the clerk of the council of the county of the decision of the court, and the said clerk shall send notice thereof to the sheriff of the county who shall delete the name of the applicant from the jurors book for the county.

(2) Where, on or after the date on which the registration officer in accordance with Regulation 9 of these Regulations has transmitted the electors list to the clerk of the council of the county, it is determined on an appeal arising out of an objection made in accordance with paragraph (c) of subsection (2) of section 21 of the Representation of the People Act, 1945, that the name of any person after whose name a jury mark has been placed ought not to be included in the civilian residence register, the registration officer shall in writing inform the clerk of the council of the county of the decision of the court, and the said clerk shall send notice thereof to the sheriff of the county who shall delete the name of that person from the jurors book for the county. [583]

**12. Special provisions relating to register appellants.**—Where upon an appeal arising out of a claim made in accordance with paragraph (c) of subsection (2) of section 21 of the Representation of the People Act, 1945, a register appellant after whose name in the list of register appellants a jury mark has been placed establishes his right to be included in a civilian residence register—

- (a) section 11 of the Elections and Jurors Act, 1945, shall apply with respect to the jury mark after the name of that register appellant in the list of register appellants as it applies with respect to a jury mark in an electors list;
- (b) the registration officer shall after the determination of the appeal despatch to the register appellant at the address in respect of which he has established his right to be included in a civilian residence

register a notice in form "A" of the forms set out in the Schedule to these Regulations, or a form to the like effect, that his name has been marked as liable for jury service in respect of that address and that any application to have the jury mark removed must be received by the registration officer within fifteen days of the date of the notice ;

- (c) any application to the registration officer by the register appellant under the said section 11 as applied by this Regulation for the removal of the jury mark after his name in the list of register appellants shall be made in writing, stating the address of the register appellant in the said list and the grounds on which the removal of the mark is claimed, and shall be made so as to be received within fifteen days of the date of the notice referred to in the last foregoing paragraph ;
- (d) the registration officer shall consider any application so made by the register appellant for the removal of the jury mark, and shall within fifteen days of the receipt by him of the application despatch notice of his decision to the register appellant in form "B" of the forms set out in the Schedule to these Regulations, or a form to the like effect ;
- (e) if the registration officer is of the opinion that the application should not be allowed, or if no such application is duly made, he shall take such steps as may be required to secure that the name of the register appellant is included in the jurors book for the county and shall, when necessary, for that purpose give notice in writing to the clerk of the council of the county of the following particulars, that is to say—
  - (i) the name of the register appellant,
  - (ii) the address in respect of which he has established his right to be included in the civilian residence register, and
  - (iii) whether the jury mark consists of the letter "J" or of the letters "SJ",

and the said clerk shall in that case send notice thereof to the sheriff of the county who shall enter the name of the register appellant and the other aforesaid particulars in the jurors book for the county ;

- (f) paragraph (1) of Regulation 11 of these Regulations shall apply to an appeal arising out of an application to the registration officer for the removal of the jury mark after the name of a register appellant in the list of register appellants as it applies to an appeal in the case of a jury mark after the name of a person in an electors list or list of successful claimants. [584]

\* \* \* \* \*

Regulations 5 and 12

## SCHEDULE

### FORM A

#### *Form of Notice to Person marked as Juror*

#### ELECTIONS AND JURORS ACT, 1945

I have to inform you that your name has been marked as a person liable to serve on juries in respect of your electoral registration for the address overleaf.

A statement of the principal qualifications for jury service and of the grounds on which exemption can be claimed is enclosed. If you do not possess a qualification or if you claim that you are exempt, you should send me an application for the removal of the jury mark and the grounds therefor, which must be received by me

at the address below on or before

. Below

is a form upon which such application can be made.

Unless exemption from jury service has been allowed, you will remain liable for jury service in each subsequent year without further notice so long as you remain registered as an elector for the address overleaf, unless on or before the 30th November in the preceding year I have received from you an application in writing for the removal of the jury mark. Any such application must state (a) your registered address and (b) the grounds on which your application is made.

.....  
Registration Officer.

Address.....

.....  
Date .....

### ELECTIONS AND JURORS ACT, 1945

#### *Application for Removal of Jury Mark*

Surname.....  
(BLOCK CAPITALS)

Christian names.....

of.....  
(give address in civilian residence register)

I claim that I am not liable for service as a juror on the grounds that

.....  
.....  
(state grounds)

and apply for the removal of the jury mark against my name.

Signed.....

Date .....

Regulations 7 and 12

FORM B

#### *Form of Notification after Consideration of Claim for Removal of Jury Mark*

### ELECTIONS AND JURORS ACT, 1945

I have to inform you that your application for the removal of the jury mark against your name has been considered and <sup>\*allowed</sup>  
<sup>\*disallowed</sup> by me.

.....  
Registration Officer.

Address.....

.....  
Date .....

\* Delete when inappropriate.

# LAND, ACQUISITION, SALE, ETC., OF

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## STATUTES

### ACQUISITION OF LAND (AUTHORISATION PROCEDURE) ACT, 1946

(9 & 10 Geo. 6, c. 49)

#### PRELIMINARY NOTE

This Act has two main objects. Firstly, it provides a uniform procedure for authorising the compulsory purchase of land by local authorities, where power to authorise such a purchase is conferred by an existing public Act and by the Minister of Transport under certain Acts for highway purposes, and, as subsequently extended, by the Ministers of Health and Civil Aviation. Secondly, it provides a speedy procedure for authorising local authorities (and the Minister of Transport and the Board of Trade for certain purposes) to enter into possession of land which they have power to purchase compulsorily, where it is urgently necessary in the public interest that they should do so. An additional and subsidiary object of the Act is to provide for the notification of purchases of war-damaged land to the War Damage Commission. The first of these provisions is permanent, while the second is limited to a period of five years with a proviso for extension.

S. 1 (1) provides that the procedure for authorising the compulsory purchase of land by (i) a local authority having power to purchase such land under any enactment in any existing public general Act, and (ii) the Minister of Transport for certain highway purposes, shall be in accordance with the provision of the First Schedule to the Act. The effect of this is to substitute the procedure laid down by this Act for the various procedures contained in the Acts conferring compulsory powers of purchase and to make it a uniform procedure for authorising such purchases. In addition, since the passing of the Act, this uniform procedure has been made applicable to the authorisation of the compulsory purchase of land by (i) the Minister of Transport under s. 28 of the Civil Aviation Act, 1946; (ii) the Minister of Civil Aviation under s. 26 of the Civil Aviation Act, 1946; and (iii) the Minister of Health and local health authorities under s. 58 of the National Health Service Act, 1946, *post*. This procedure, however, is not applicable to purchases under the Light Railways Acts, 1896 and 1912 (14 Halsbury's Statutes 252, 314), Part III of the Housing Act, 1936 (29 Halsbury's Statutes 584), and the Town and Country Planning Act, 1944 (37 Halsbury's Statutes 420) (s. 1 (4)). S. 1 (2) provides that a purchase falling within s. 1 (1) of land (i) belonging to a local authority or acquired by statutory undertakers for the purposes of their undertaking, or (ii) forming part of a common, open space or fuel or field garden allotment, or held inalienably by the National Trust (s. 6 (3) declares that power to purchase land compulsorily includes power to purchase land declared to be inalienable except in so far as the enactment conferring the power provides otherwise), or (iii) which is an ancient monument or other object of archaeological interest, shall be subject to the special provisions of Part III of the First Schedule, which requires that where there is an objection to the purchase, or where certain ministerial certificates have not been given, the order shall be subject to the special parliamentary procedure laid down by the Statutory Orders (Special Procedure) Act, 1945 (38 Halsbury's Statutes 439). S. 1 (5) provides that nothing in the Act shall prevent the authorisation by special order or provisional order of the compulsory purchase of land under the Electricity (Supply) Acts, 1882 to 1936 (7 Halsbury's Statutes 686 *et seq.*; and 29 Halsbury's Statutes 133). Proceedings begun before April 18, 1946, may be completed as if this Act had not been passed (s. 10 (4)).

Subject to the above provisions, the Act provides a uniform procedure for authorising the compulsory purchase of land by local authorities under public

general Acts, by local health authorities under the National Health Service Act, 1946, *post*, and by the various Ministers under the Acts specified above. Furthermore, the Minister of Health may, on the application of a local authority which is empowered by a local Act to purchase land compulsorily, order that the provisions of s. 1 are to apply to such Act as if it were a public general Act (s. 7 (1)); but any such order made after April 18, 1948, will be subject to the special parliamentary procedure referred to above (s. 7 (3)).

The uniform procedure prescribed by the Act is based on the procedure contained in the Local Government Act, 1933, ss. 159 *et seq.* (26 Halsbury's Statutes 392 *et seq.*) and consists in the repeal of the provisions as to the authorisation of compulsory purchases of land contained in that Act, so far as they relate to compulsory purchases falling within s. 1 (1) of the present Act, and their re-enactment in a modified form in the First and Second Schedules. Ss. 157 and 158 of the Act of 1933 (*ibid.* 391), relating to the acquisition of land by agreement, are left untouched. Ss. 160 and 161 (*ibid.* 393), relating to compulsory purchases by means of provisional orders and compulsory purchase orders respectively, together with the consequential s. 162, cease to have effect in relation to the compulsory purchase of land falling within s. 1 (1) of the Act, and s. 159 (*ibid.* 392) is amended to provide that authorisation for compulsory purchase must be by the Minister of Health. The provisions of the First and Second Schedules are substituted for the former provisions. S. 168 of the 1933 Act (*ibid.* 398), relating to the compulsory purchase of land by a county council on behalf of a parish council, is widely amended to bring it into conformity with the general modified scheme. Ss. 174 and 175 (*ibid.* 401), containing provisions as to commons and open spaces and land in the neighbourhood of royal palaces or parks, and paragraphs (a), (b), (c) and (g) of s. 179 (*ibid.* 403), all cease to have effect in relation to compulsory purchases falling within s. 1 (1), and the provisions of Part III of the First Schedule take their place. The Sixth Schedule to the Act of 1933 (*ibid.* 508), relating to the incorporation of provisions of the Lands Clauses Acts (2 Halsbury's Statutes 1113), is replaced by the Second Schedule to the present Act.

The uniform procedure for the authorisation of compulsory purchases of land by local authorities is briefly as follows. Before submitting the order for confirmation the local authority must publish in two successive weeks in a local newspaper and serve on every owner, lessee and occupier of the land to be acquired a notice giving particulars of the order and specifying a time, not being less than twenty-one days, within which objections may be made. To cover the difficulty which had been experienced under the previous procedure of effecting service where, owing to extensive war damage, the owner of the property could not readily be ascertained, it is provided that, where the confirming authority so directs, the notice may, in lieu of being served as aforesaid, be affixed to a conspicuous object on the land (First Schedule, para. 3 (c)). This provision follows a similar provision in the Town and Country Planning Act, 1944, s. 54 (37 Halsbury's Statutes 473). If no objections are made, or if any objections made are withdrawn, the confirming authority may confirm the order; but in any other case, unless the objection relates solely to a question of compensation, a public local inquiry must be held or the person objecting be given an opportunity of being heard by a person appointed by the confirming authority for that purpose. This latter provision also is an innovation, intended to make the procedure more speedy. The confirming authority will take all relevant considerations into account in determining whether an inquiry or a hearing is the more suitable method to be adopted (see H. of C. Official Report S.C.D., February 26, 1946, col. 165). It is not limited to holding inquiries only when objections are made, but may hold them as it thinks fit (s. 5 (1)). Having considered any objection and the report thereon, the confirming authority may confirm the order. The acquiring authority must then publish in a local newspaper a notice that the order has been confirmed and serve it on all the persons receiving the previous notice, and may, after notice to treat has been given, enter on and take possession of the land on giving fourteen days' notice. A similar procedure to that outlined above is laid down for compulsory purchases by the Ministers of Transport, of Civil Aviation and Health (First Schedule, Part II, as applied).

Part IV of the First Schedule makes provision for questioning the validity of a compulsory purchase order by application to the High Court within six weeks of notice of confirmation thereof, but, subject thereto, a compulsory purchase order is not to be questioned in any legal proceedings.

S. 2 (1) provides that, during a period of five years from April 18, 1946, an authorisation of a compulsory purchase of land by a local authority which could be given by compulsory purchase order under s. 1 (1) or under the Town and Country Planning Act, 1944 (37 Halsbury's Statutes 423), may instead be given in writing when the confirming authority is satisfied that it is urgently necessary in the public interest for possession to be obtained without delay. A similar provision is made by s. 2 (2) in respect of compulsory purchases by the Board of Trade under the Distribution of Industry Act, 1945 (38 Halsbury's Statutes 479), and by the Minister of Transport under the same Acts, with one exception, to which the uniform procedure under s. 1 (1) applies. This accelerated procedure cannot be applied to the special categories of land specified in s. 1 (2), or to dwelling houses; nor can it be extended to local Acts (s. 7 (1)).

The speedy procedure (which is set out in the Third Schedule to the Act) resembles that laid down in s. 6 of the Housing (Temporary Accommodation) Act, 1944 (37 Halsbury's Statutes 413), for the acquisition of land for temporary houses. Before an authorisation is given a notice must be published in a local newspaper and served on every owner and occupier giving a period of fourteen days within which representations may be made to the confirming authority. There is a like provision for the notice being affixed to a conspicuous object on the land instead of being served as is provided in the uniform procedure under s. 1 (1). Having considered any representations duly made to it, the confirming authority may confirm the order in writing, notifying the person who has made the representation of its decision. Seven days (but not later than three months) after being so authorised, the acquiring authority may enter on and take possession of the land notwithstanding that the purchase thereof has not been completed. Upon taking possession the acquiring authority acquires the power to purchase the land compulsorily and must serve notice under s. 18 of the Lands Clauses Consolidation Act, 1845 (2 Halsbury's Statutes 1120), of intention to take the land (s. 2 (4)). This notice is irrevocable and accordingly the purchase must be completed. An acquiring authority in possession is to be treated, as regards the user of the land and the rights of third parties, in all respects as if the purchase had been completed (s. 2 (7)).

The Minister of Town and Country Planning stated in the course of the Second Reading Debate (418 H. of C. Official Report 1204) that this speedy procedure would be resorted to only in cases of exceptional urgency, the normal course being to follow the procedure prescribed by s. 1. The Minister of Health, during the same debate (*ibid.* 1126), added the further assurance that the proper exercise of this power would be safeguarded by the pre-consideration of the land to be acquired by both the Minister of Agriculture and the Minister of Town and Country Planning. While there is no obligation upon the confirming authority to hold a public local inquiry or a hearing, s. 7 enables an inquiry to be held when the acquiring authority thinks fit, and the Parliamentary Secretary to the Ministry of Health stated that in any doubtful case an inquiry or hearing would be held (H. of C. Official Report S.C.D., March 7, 1946, col. 306).

The five-year period laid down in s. 2 (1) for the operation of this procedure may be extended from year to year by Order in Council in accordance with s. 2 (9) thereof.

S. 3 provides for the extinction of public rights of way over land compulsorily purchased, or purchased by agreement in cases where it could be compulsorily purchased. S. 4 provides for notification to the War Damage Commission of the purchase of war-damaged land by an acquiring authority, since the general effect of such a purchase is to substitute a "cost of works payment" for a "value payment" as the appropriate type of payment under the War Damage Act, 1943 (36 Halsbury's Statutes 334), in respect of the property acquired.

S. 5 makes provision for holding public local inquiries. S. 6 incorporates the minor and consequential amendments specified in the Fourth Schedule. S. 7 makes provision for extending the procedure laid down in s. 1 to local Acts. S. 8 is an interpretation section. [586]

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*An Act to amend the law as to the authorisation of the compulsory purchase of land for purposes for which the purchasing authority has power to purchase land compulsorily under existing enactments; to make temporary provision as to the procedure for the compulsory purchase of land as aforesaid in urgent cases; to provide for notifying purchases of war-damaged land to the War Damage Commission; and for purposes connected with the matters aforesaid.*  
[587]

[18th April, 1946.]

**1. Procedure for compulsory purchase of land by local authorities, and by the Minister of Transport for highway purposes.**—(1) The authorisation of any compulsory purchase of land—

- (a) by a local authority where, apart from this Act, power to authorise the authority to purchase land compulsorily is conferred by or under any enactment contained in a public general Act and in force immediately before the commencement of this Act, other than any enactment specified in subsection (4) of this section;
- (b) by the Minister of Transport under section eleven of the Development and Road Improvement Funds Act, 1909, or that section as applied by section three of the Roads Improvement Act, 1925, or under section thirteen of the Restriction of Ribbon Development Act, 1935, as applied by section four of the Trunk Roads Act, 1936, or by section five of the Trunk Roads Act, 1946,

shall, subject to the provisions of this and the next following section, be



conferred by an order (in this Act referred to as a "compulsory purchase order") in accordance with the provisions of the First Schedule to this Act (being provisions which, subject to certain adaptations, modifications and exceptions, correspond with provisions as to the authorisation of the compulsory purchase of land of the Local Government Act, 1933). [588]

(2) The purchase, in a case falling within the last foregoing subsection, of land—

- (a) which is the property of a local authority or which has been acquired by statutory undertakers for the purposes of their undertaking,
- (b) forming part of a common, open space or fuel or field garden allotment, or held inalienably by the National Trust, or
- (c) being, or being the site of, an ancient monument or other object of archaeological interest,

shall be subject to the special provisions of Part III of the said First Schedule. [589]

(3) In relation to any compulsory purchase to which the provisions of the First Schedule to this Act apply, the Lands Clauses Acts and other enactments mentioned in Parts I and II of the Second Schedule to this Act shall be incorporated in accordance with the provisions of the said Parts I and II; and the Acquisition of Land (Assessment of Compensation) Act, 1919, shall have effect in relation to any such compulsory purchase subject to the provisions of Part III of that Schedule. [590]

(4) The enactments excepted from the operation of subsection (1) of this section are any enactment contained in—

- (a) the Light Railways Acts, 1896 and 1912;
- (b) Part III of the Housing Act, 1936;
- (c) the Town and Country Planning Act, 1944. [591]

(5) Nothing in this Act shall prevent the authorisation by special order or Provisional Order of the compulsory purchase of land under the Electricity (Supply) Acts, 1882 to 1936. [592]

(6) The Public Works Facilities Act, 1930, shall cease to have effect. [593]

The procedure provided by this section and Sched. I, *post*, has, since the passing of the Act, been extended to apply to the authorisation of compulsory purchases of land in three further cases, namely, (i) purchases by the Minister of Transport under s. 28 of the Civil Aviation Act, 1946; (ii) purchases by the Minister of Civil Aviation under s. 26 of that Act; and (iii) purchases by the Minister of Health and local health authorities under s. 58 of the National Health Service Act, 1946, *post*.

*Effect of section.*—See Preliminary Note, *ante*.

*Development and Road Improvement Funds Act*, 1909, s. 11.—9 Halsbury's Statutes 214.

*Roads Improvement Act*, 1925, s. 3.—9 Halsbury's Statutes 221.

*Restriction of Ribbon Development Act*, 1935, s. 13.—28 Halsbury's Statutes 91.

*Trunk Roads Act*, 1936, s. 4.—29 Halsbury's Statutes 189.

*Local Government Act*, 1933.—Provisions as to the compulsory acquisition of land are contained in ss. 159 *et seq.* (26 Halsbury's Statutes 392 *et seq.*).

*Lands Clauses Acts.*—For these Acts, see 2 Halsbury's Statutes 1113 *et seq.*

*Acquisition of Land (Assessment of Compensation) Act*, 1919.—2 Halsbury's Statutes 1176.

*Light Railways Acts*, 1896 and 1912.—14 Halsbury's Statutes 252, 314.

*Housing Act*, 1936, Part III.—29 Halsbury's Statutes 584.

*Town and Country Planning Act*, 1944.—37 Halsbury's Statutes 420.

*Electricity (Supply) Acts*, 1882 to 1936.—7 Halsbury's Statutes 686 *et seq.* and 29 Halsbury's Statutes 133.

*Public Works Facilities Act*, 1930.—23 Halsbury's Statutes 769.

*The National Trust.*—As to compulsory purchase of land declared to be inalienable, see s. 6 (3), *post*; and see definition of "held inalienably" in s. 8 (1), *post*.

*Commencement of this Act.*—April 18, 1946.

*Any enactment contained in a public general Act.*—For extension of the provisions of this section to local Acts, see s. 7, *post*.

*Any enactment.*—Refers to that enactment as amended by or under any other enactment (including this Act); see s. 8 (3), *post*. An enactment contained in an Act specified in the Fourth Schedule, which contains minor and consequential amendments, is to be construed as if the amendments had been in force immediately before this Act came into force (s. 6 (2)).

*Definitions.*—For definitions of "local authority," "any enactment," "land," "statutory undertakers," "common," "open space," "fuel or field garden allotment," "National Trust" and "ancient monument," see s. 8, *post*.

**2. Temporary powers for speedy acquisition of land in urgent cases.—**

(1) Where during the period of five years beginning with the commencement of this Act any authority (hereinafter referred to as a "confirming authority") having power to authorise the compulsory purchase of land by a local authority for any purpose is satisfied—

(a) that it is expedient that the local authority (hereinafter referred to as the "acquiring authority") should purchase any land for the said purpose, and

(b) that it is urgently necessary in the public interest that the acquiring authority should be enabled to obtain possession of the land without delay,

- then if apart from this section the acquiring authority could be authorised by the confirming authority under any enactment to purchase the land compulsorily for the said purpose in accordance with the provisions of the foregoing section or of the Town and Country Planning Act, 1944, the acquiring authority may, in lieu of being so authorised in accordance with the said provisions, be so authorised, subject to the provisions of the Third Schedule to this Act, by an authorisation in writing given by the confirming authority under this subsection. [594]

(2) Where during the period aforesaid the Minister of Transport is satisfied that it is expedient that he should purchase any land under any enactment mentioned in paragraph (b) of subsection (1) of the foregoing section, or the Board of Trade are satisfied that it is expedient that they should purchase any land under the Distribution of Industry Act, 1945, and the Minister or Board are satisfied that it is urgently necessary in the public interest that the Minister or Board should be enabled to obtain possession of the land without delay, the Minister or Board may, in lieu of being authorised to purchase the land in accordance with the provisions of the foregoing section or of the said Act of 1945, be so authorised, subject to the provisions of the Third Schedule to this Act, by an authorisation in writing given by the Minister or Board under this subsection.

In the following provisions of this section and in the Third Schedule to this Act the expressions "acquiring authority" and "confirming authority" include the Minister of Transport or Board of Trade acting under this subsection. [595]

(3) At any time not earlier than seven days nor later than three months after the giving of an authorisation under this section the acquiring authority may enter on, and take possession of, the land to which the authorisation relates notwithstanding that the purchase of the land has not been completed. [596]

(4) Where the acquiring authority has taken possession of land pursuant to an authorisation under this section, the authority shall have power to purchase the land compulsorily as if authorised so to do under the enactment referred to in subsection (1) or (2) of this section, and in accordance with the provisions of the foregoing section, the Town and Country Planning Act, 1944, or the Distribution of Industry Act, 1945, as the case may be, and the provisions of Part IV of the Second Schedule to this Act; and the authority shall as soon as may be after taking possession of the land serve notice under section eighteen of the Lands Clauses Consolidation Act, 1845, of its intention to take the land and shall in all respects be liable as if such notice had been given on the date of the authority's entering on the land, except that the power conferred by subsection (2) of section five of the Acquisition of Land (Assessment of Compensation) Act, 1919, to withdraw such a notice shall not be exercisable. [597]

(5) A power to enter on and take possession of land conferred by an authorisation given under this section may, save as provided in the Third Schedule to this Act, be exercised without notice to or the consent of any person and without compliance with sections eighty-four to ninety of the Lands Clauses Consolidation Act, 1845, but subject to payment of the like compensation, and interest on the compensation agreed or awarded, as the acquiring authority would have been required to pay if the provisions of those sections had been complied with. [598]

(6) Notwithstanding anything in the two last foregoing subsections, where apart from this subsection the compensation for the compulsory purchase of land in respect of which an authorisation has been given under this section would be reduced by virtue of paragraph 9 of the Fifth Schedule to the Town and Country Planning Act, 1944 (which relates to purchases under that Act of houses unfit for human habitation), the reduction shall not be made unless an order under the said paragraph 9 has come into operation before the date on which the acquiring authority took possession of the land. [599]

(7) While the acquiring authority is in possession of land pursuant to an authorisation given under this section, the authority shall be treated, as regards the use of the land and the rights of other persons affected by the use thereof, as if the authority had completed the purchase of the land; and in particular any provision for the extinction of rights over the land on completion of the purchase thereof shall apply as if the authority had completed the purchase thereof at the time when possession thereof was taken. [600]

(8) In this section references to the use of land include references to the erection of buildings or structures on the land and the carrying out of work thereon. [601]

(9) If at any time before the expiration of the period during which authorisations may be given under this section an address is presented to His Majesty by each House of Parliament praying that the said period shall be extended for a further year from the time at which it would otherwise expire, His Majesty may by Order in Council direct that the said period shall be so extended. [602]

*Effect of section.*—See Preliminary Note, *ante*. S. 4 (3) of the New Towns Act, 1946, provides that the present section is to have effect as if references therein to a local authority included references to a development corporation as defined by s. 2 of that Act, provided that without prejudice to the provisions of the present section restricting the period within which an authorisation may be given (see sub-ss. (1), (9), *supra*) no such authorisation is to be given for the compulsory purchase of land by the development corporation established for the purposes of a new town at any time after two years from the date on which the order under s. 1 of that Act designating the site of the new town becomes operative.

It should be noted that neither the Civil Aviation Act, 1946, nor the National Health Service Act, 1946, *post*, which, as stated in the notes to s. 1, *ante*, apply the procedure provided by that section to compulsory purchases of land made under those Acts, extend the application of the procedure provided by the present section.

*Period of five years.*—For extension of this period, see sub-s. (9), *supra*.

*Commencement of this Act.*—April 18, 1946.

*Acquiring authority; confirming authority, i.e.,* the local authority or the Minister of Transport or the Board of Trade; see sub-ss. (1) (a), (2), *supra*.

*Town and Country Planning Act, 1944.*—37 Halsbury's Statutes 420. For the Fifth Schedule, para. 9, see *ibid.*, 489.

*Distribution of Industry Act, 1945.*—38 Halsbury's Statutes 479.

*Lands Clauses Consolidation Act, 1845, ss. 18 and 84-90.*—2 Halsbury's Statutes 1120, 1142-1145. Ss. 84-90 render payment of purchase money a condition precedent to entry upon lands compulsorily purchased.

*Acquisition of Land (Assessment of Compensation) Act, 1919, s. 5 (2).*—2 Halsbury's Statutes 1179.

*Definitions.*—For definitions of "land" and "local authority," see s. 8 (1), *post*.

### 3. Power to extinguish certain public rights of way over land acquired.—

(1) Subject to the provisions of this section, where land is acquired, or proposed to be acquired,—

- (a) in pursuance of a compulsory purchase order made under section one of this Act or an authorisation given under section two thereof, or
- (b) by agreement for a purpose, and by an authority, such that the compulsory acquisition of the land could be authorised by such an order or authorisation as aforesaid,

and there subsists over any part of the land a public right of way, not being a right enjoyable by vehicular traffic, then if the Minister of Town and Country Planning (hereafter in this section referred to as "the Minister") is satisfied that a suitable alternative right of way has been or will be provided, or that the provision thereof is not required, he may by order extinguish the right of way as from such time as may be specified in the order, not being earlier than—

- (i) the making of the order,
- (ii) if in the exercise of any power conferred by this Act or by agreement the acquiring authority takes possession of the land before the acquisition thereof is completed, the date on which the authority takes possession of the land,
- (iii) if the acquiring authority does not take possession of the land in the exercise of any such power as aforesaid, the date on which the acquisition of the land is completed :

Provided that where a right of way is extinguished under this subsection at a date before the acquisition of the land in question is completed, then if at any time thereafter it appears to the Minister that the proposal to acquire the land has been abandoned, he shall by order direct that the right shall revive, without prejudice, however, to the making of a new order extinguishing the right. [603]

(2) The Minister shall cause a notice stating the effect of any order that he proposes to make under this section extinguishing a right of way, and specifying the time (not being less than twenty-one days from the publication of the notice) within which, and the manner in which, objections to the proposal may be made, to be published in such manner as appears to him to be requisite, and in any case where the acquiring authority is not the local planning authority (that is to say, the council specified in subsection (1) of section two of the Town and Country Planning Act, 1932) for the area in which the land is situated shall serve a like notice on the said local planning authority. [604]

(3) If any objection to the proposal is duly made and is not withdrawn, the Minister shall, before making the order, cause a public local inquiry to be held. [605]

(4) No order shall be made under subsection (1) of this section extinguishing a right of way over land on, over or under which there is any apparatus belonging to statutory undertakers unless the undertakers consent to the making of the order, and any such consent may be given subject to the condition that there are included in the order such provisions for the protection of the undertakers as they may reasonably require.

The consent of statutory undertakers to any such order shall not be unreasonably refused, and any question arising under this subsection whether any requirement or refusal is reasonable shall be determined by the appropriate Minister. [606]

(5) The foregoing provisions of this section shall not apply in any case where section twenty-three of the Town and Country Planning Act, 1944 (which relates to the extinction of public rights of way over land acquired or appropriated for the purposes of Part I of that Act), applies. [607]

(6) Except as provided by the foregoing provisions of this section or by the said section twenty-three, nothing in this Act shall be taken to authorise the extinction of any public right of way. [608]

Although, as stated in the notes to s. 1, *ante*, the procedure provided by that section is, by s. 26 of the Civil Aviation Act, 1946, made applicable to compulsory purchases of land by the Minister of Civil Aviation, the proviso to sub-s. (2) of the said s. 26 expressly lays down that the present section is not to have any effect in relation to land acquired or proposed to be acquired by the Minister.

*Acquiring authority.*—See s. 2 (1) (a), (2), *ante*.

*The Minister, i.e.* the Minister of Town and Country Planning; see sub-s. (1) of this section.

*Authorisation under s. 2.*—The acquiring authority has on being authorised to take possession under this section all the powers of extinguishing public rights of way that he would have on completion of the purchase; see s. 2 (7), *ante*.

*Public local inquiry.*—For provisions, see s. 5, *post*.

*Town and Country Planning Act, 1932, s. 2, sub-s. (1).*—25 Halsbury's Statutes 472.

*Town and Country Planning Act, 1944, s. 23.*—37 Halsbury's Statutes 452; for Part I, see *ibid.*, 425.

*Definitions.*—For definitions of “appropriate Minister,” “land” and “statutory undertakers,” see s. 8 (1), *post*.

**4. Notification of purchases of war-damaged land to War Damage Commission.**—(1) On the date on which any such action as the following is taken, that is to say—

- (a) notice to treat is served for the compulsory purchase under any enactment of an interest in any land that has sustained war damage any of which has not been made good at that date,
- (b) any other action is taken by virtue of which compulsory purchase under any enactment of an interest in such land becomes obligatory, or
- (c) there is withdrawn a notice to treat for the compulsory purchase under any enactment of an interest in any land that has sustained war damage any of which had not been made good at the time when the notice to treat was served,

or as soon as may be after that date, the person or body of persons by whom the action is taken shall notify the War Damage Commission that the action has been taken :

Provided that this subsection shall not apply to a notice to treat deemed to have been served by virtue of the Sixth Schedule to the Town and Country Planning Act, 1944. [609]

(2) If any person or body of persons, being authorised under any enactment to purchase compulsorily land which has sustained war damage, enter into an agreement for the purchase of an interest in the land and at the date when the agreement is made any of the damage has not been made good, the person or body of persons shall, on or as soon as may be after that date, notify the War Damage Commission that they have entered into the agreement. [610]

(3) Any notification under this section may be given to the War Damage Commission by delivering it to an officer of the Commission at any office of the Commission, or by sending it in a pre-paid registered letter addressed to the Commission at any office of the Commission. [611]

(4) In this section the expression “war damage” has the same meaning as in the War Damage Act, 1943, and the expression “enactment” includes an enactment passed after the commencement of this Act. [612]

(5) Subsection (1) of section fifty-three of the Town and Country Planning Act, 1944, except the proviso thereto, and subsection (2) of that section shall cease to have effect. [613]

*Effect of section.*—See Preliminary Note, *ante*.

*War Damage Commission.*—The Commission constituted by the War Damage Act, 1943,

s. 3 (1) (36 Halsbury's Statutes 339) to execute the provisions of Part I of that Act relating to payments for war damage to land.

*Town and Country Planning Act, 1944, Sixth Schedule.*—37 Halsbury's Statutes 490. For s. 53 of that Act, see *ibid.*, 473. The repealed portions of s. 53 contained provisions similar to those in sub-ss. (1) (a) and (2) of this section. The proviso which is retained specifies the notice to be given in cases falling within the procedure for expedited completion under that Act which is set out in the Sixth Schedule thereto.

*War Damage Act, 1943.*—36 Halsbury's Statutes 334. "War damage" is defined in s. 2 of that Act (*ibid.*, 338).

*Definition.*—For definition of "land," see s. 8 (1), *post*.

**5. Provisions as to inquiries.**—(1) For the purposes of the execution of his powers and duties under this Act, a Minister may cause to be held such public local inquiries as are directed by this Act and such other public local inquiries as he may think fit. [614]

(2) Subsections (2) and (3) of section two hundred and ninety of the Local Government Act, 1933 (which relate to the giving of evidence on inquiries), and in relation to a proposed acquisition of land by a local authority, or to the proposed extinction of a right of way over land acquired or proposed to be acquired by a local authority, subsections (4) and (5) of that section (which relate to the defraying of costs of inquiries) shall apply to a public local inquiry held in pursuance of this Act as they apply to the inquiries mentioned in subsection (1) of the said section two hundred and ninety, but with the substitution for references to a department of references to a Minister. [615]

*Inquiries directed by this Act.*—See s. 3 (3), *ante*, and the First Schedule, paras. 4 (2) and 11 (2) (b), *post*. This section enables such public local inquiries to be held as the Minister thinks fit. It will be invoked to enable an inquiry to be held in connection with a compulsory purchase under s. 2, *ante*, when an inquiry is desirable (see H. of C. Official Report S.C.D., March 7, 1946, col. 306).

*Local Government Act, 1933, s. 290.*—26 Halsbury's Statutes 459.

*Costs of inquiries.*—The effect of the incorporation of s. 290 (4) and (5) of the Local Government Act, 1933, is to enable the Minister when he holds an inquiry to give directions as to the payment of his costs and the costs of the parties thereto.

*Definitions.*—For definitions of "land" and "local authority," see s. 8 (1), *post*.

**6. Minor and consequential amendments.**—(1) The enactments specified in the Fourth Schedule to this Act shall have effect subject to the amendments specified in the second column of that Schedule, being minor amendments or amendments consequential on the passing of this Act. [616]

(2) Any reference in subsection (1) of section one of this Act or in paragraph 1 of the First Schedule thereto to an enactment contained in an Act specified in the said Fourth Schedule shall be construed as if the said amendments had been in force immediately before the commencement of this Act. [617]

(3) For the removal of doubt it is hereby declared that any power conferred by or under this Act or any enactment passed before the commencement thereof to purchase land compulsorily is, except in so far as any express provision of any such enactment restricts the exercise of the power, exercisable notwithstanding any other enactment providing that the land shall be inalienable. [618]

*Sub-s. (3).*—The effect of this subsection is to allow the compulsory purchase of land held inalienably by the National Trust, under s. 1 (1) of this Act or under any previous Act conferring powers of compulsory purchase, though the purchase will be subject to the special provisions of the First Schedule, Part III.

*Definition.*—For definition of "land," see s. 8 (1), *post*.

**7. Application of section 1 to local Acts.**—(1) Where, apart from this Act, power to authorise a local authority to purchase land compulsorily is conferred by any enactment contained in a local Act and in force immediately before the commencement of this Act, the Minister of Health may by order made on the application of the local authority direct that section one of this Act



shall apply in relation to the enactment as if the enactment were contained in a public general Act :

Provided that nothing in an order under this section shall empower the authorisation of a compulsory purchase in accordance with the provisions of section two of this Act. [619]

(2) Where an order has come into operation under this section the last foregoing section shall apply as if the local Act to which the order relates were specified in the Fourth Schedule to this Act, and as if there were specified in the second column of that Schedule such amendments of the local Act as may be provided for in the order, being amendments appearing to the Minister to be consequential on the making of the order. [620]

(3) Any order under this section made after the expiration of two years from the commencement of this Act shall be subject to special parliamentary procedure. [621]

*Special parliamentary procedure.*—This is the procedure laid down by the Statutory Orders (Special Procedure) Act, 1945 (38 Halsbury's Statutes 439).

*Definitions.*—For definitions of "land" and "local authority," see s. 8 (1), *post*.

**8. Interpretation.**—(1) In this Act, except where the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say :—

"appropriate Minister" means, in relation to—

(a) any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking, the Minister of Transport,

(b) in relation to any undertaking for the supply of electricity, gas or hydraulic power, the Minister of Fuel and Power,

(c) in relation to any undertaking for the supply of water, the Minister of Health ;

"ancient monument" has the same meaning as in the Ancient Monuments Acts, 1913 and 1931 ;

"common" includes any land subject to be enclosed under the Inclosure Acts, 1845 to 1882, and any town or village green ;

"fuel or field garden allotment" means any allotment set out as a fuel allotment, or a field garden allotment, under an Inclosure Act ;

"held inalienably", in relation to land belonging to the National Trust, means that the land is inalienable under section twenty-one of the National Trust Act, 1907, or section eight of the National Trust Act, 1939 ;

"land", in relation to compulsory purchase under any enactment, includes anything falling within any definition of the expression in that enactment ;

"local authority" means the council of a county, county borough, metropolitan borough or county district, the common council of the City of London, the receiver for the metropolitan police district or any other authority being a local authority within the meaning of the Local Loans Act, 1875, and includes any drainage board and any joint board or joint committee if all the constituent authorities are such local authorities as aforesaid, and includes also the Honourable Society of the Inner Temple and the Honourable Society of the Middle Temple ;

"National Trust" means the National Trust for Places of Historic Interest or Natural Beauty incorporated by the said Act of 1907 ;

"open space" means any land laid out as a public garden, or used for the purposes of public recreation, or land being a disused burial ground ;



"owner", in relation to any land, means a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple of the land, whether in possession or in reversion, and includes also a person holding or entitled to the rents and profits of the land under a lease or agreement, the unexpired term whereof exceeds three years ;

"statutory undertakers" means any persons authorised by any Act (whether public general or local), or by any order or scheme made under or confirmed by an Act, to construct, work or carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking, or any undertaking for the supply of electricity, gas, hydraulic power or water. [622]

(2) If any question arises under this Act which Minister is the appropriate Minister the question shall be determined by the Treasury. [623]

(3) References in this Act to any enactment shall be construed as references to that enactment as amended by or under any other enactment (including this Act). [624]

*Ancient Monuments Acts, 1913 and 1931.*—12 Halsbury's Statutes 392 ; 24 Halsbury's Statutes 296.

*Inclosure Acts, 1845 to 1882.*—2 Halsbury's Statutes 443 *et seq.*

*Local Loans Act, 1875.*—12 Halsbury's Statutes 242 ; "local authority" is defined in s. 34 thereof (*ibid.*, 253).

## 9. Provisions as to Scotland. [625]

10. **Short title, repeals and saving.**—(1) This Act may be cited as the Acquisition of Land (Authorisation Procedure) Act, 1946. [626]

(2) This Act shall not extend to Northern Ireland. [627]

(3) The enactments specified in the Sixth Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule. [628]

(4) Where before the commencement of this Act proceedings for obtaining authorisation of a compulsory purchase in accordance with the provisions of any enactment referred to in section one of this Act have been begun but not completed, the proceedings may be completed as if this Act had not been passed. [629]

## SCHEDULES

### Section 1

### FIRST SCHEDULE

#### PROCEDURE FOR AUTHORISING COMPULSORY PURCHASES

#### PART I

##### *Purchases by local authorities*

1. A compulsory purchase order authorising a compulsory purchase by a local authority (hereafter in this Schedule referred to as the "acquiring authority") in a case falling within subsection (1) of section one of this Act shall be made by the local authority and submitted to and confirmed by the authority having power under the enactment in question to authorise the purchase (hereafter in this Schedule referred to as the "confirming authority") in accordance with the following provisions of this Schedule.

2. The compulsory purchase order shall be in the prescribed form and shall describe by reference to a map the land to which it applies.

3.—(1) Before submitting the order to the confirming authority the acquiring authority shall—

(a) in two successive weeks publish in one or more local newspapers circulating

in the locality in which the land comprised in the order is situated a notice in the prescribed form stating that the order has been made and is about to be submitted for confirmation and the purpose for which the land is required, describing the land, naming a place within the locality where a copy of the order and the map referred to therein may be inspected, and specifying the time (not being less than twenty-one days from the first publication of the notice) within which and the manner in which objections to the order can be made ;

- (b) except in so far as the confirming authority directs that this provision shall not have effect in any particular case, serve on every owner, lessee and occupier (except tenants for a month or any period less than a month) of any land comprised in the order a notice in the prescribed form stating the effect of the order and that it is about to be submitted for confirmation, and specifying the time (not being less than twenty-one days from the service of the notice) within which and the manner in which objections thereto can be made ;
- (c) in the case of any land with respect to which a direction is given under head (b) of this sub-paragraph, affix to some conspicuous object or objects on the land a notice or notices in the prescribed form addressed to "the owners and any occupiers" of the land (describing it) containing the particulars specified in the said head (b) :

Provided that no direction under head (b) of this sub-paragraph shall have effect in relation to an owner, lessee or occupier being a local authority or statutory undertakers or the National Trust.

(2) Where under this paragraph any notice is required to be served on an owner of land, and the land is ecclesiastical property, a like notice shall be served on the Ecclesiastical Commissioners.

(3) In this paragraph the expression "ecclesiastical property" means land belonging to any ecclesiastical benefice, or being or forming part of a church subject to the jurisdiction of the bishop of any diocese or the site of such a church, or being or forming part of a burial ground subject to such jurisdiction.

4.—(1) If no objection is duly made by any such owner, lessee or occupier as aforesaid or if all objections so made are withdrawn, the confirming authority, upon being satisfied that the proper notices have been published and served, may, if the authority thinks fit, confirm the order with or without modifications.

(2) If any objection duly made as aforesaid is not withdrawn, the confirming authority shall, before confirming the order, either cause a public local inquiry to be held or afford to any person by whom any objection has been duly made as aforesaid and not withdrawn an opportunity of appearing before and being heard by a person appointed by the confirming authority for the purpose, and, after considering the objection and the report of the person who held the inquiry or the person appointed as aforesaid, may confirm the order either with or without modifications.

(3) If any person by whom an objection has been made avails himself of the opportunity of being heard, the confirming authority shall afford to the acquiring authority, and to any other persons to whom it appears to the confirming authority expedient to afford it, an opportunity of being heard on the same occasion.

(4) Notwithstanding anything in the two last foregoing sub-paragraphs, the confirming authority may require any person who has made an objection to state in writing the grounds thereof, and may disregard the objection for the purposes of this paragraph if the confirming authority is satisfied that the objection relates exclusively to matters which can be dealt with by the tribunal by whom the compensation is to be assessed.

5. The order as confirmed by the confirming authority shall not, unless all persons interested consent, authorise the acquiring authority to purchase compulsorily any land which the order would not have authorised that authority so to purchase if it had been confirmed without modification.

6. As soon as may be after the order has been confirmed the acquiring authority shall publish in one or more local newspapers circulating in the locality in which the land comprised in the order is situated a notice in the prescribed form describing

the land, stating that the order has been confirmed and naming a place where a copy of the order as confirmed and of the map referred to therein may be inspected at all reasonable hours, and shall serve a like notice and a copy of the order as confirmed on any persons on whom notices with respect to the land comprised in the order were required to be served under paragraph 3 of this Schedule. [630]

*Effect of Part I.*—This Part of the Schedule sets out the provisions in accordance with which a compulsory purchase of land by a local authority under s. 1 (1) (a) (as extended by s. 7) may be authorised. These provisions are adapted from the corresponding provisions of the Local Government Act, 1933; see ss. 159 *et seq.* thereof (26 Halsbury's Statutes 392 *et seq.*) and Preliminary Note, *ante*. For the provisions applicable to compulsory purchase of land by Ministers, see Part II of this Schedule, and for those applicable to compulsory purchase of the particular classes of land specified in s. 1 (2), *ante*, see Part III hereof.

"*The enactment in question*," i.e. any enactment in any public general Act (and in any local Act as may be directed by the Minister of Health under s. 7) conferring a power of compulsory purchase on a local authority, in force before April 18, 1946, other than the Light Railways Acts, 1896 and 1912 (14 Halsbury's Statutes 252, 314), Part III of the Housing Act, 1936 (29 Halsbury's Statutes 584), and the Town and Country Planning Act, 1944 (37 Halsbury's Statutes 420). Any enactment is to be construed as that enactment as amended by or under any other enactment (including this Act) (s. 8 (3)).

*Prescribed form.*—The various prescribed forms referred to are contained in the Compulsory Purchase of Land Regulations, 1946 (S. R. & O., 1946, No. 573), made by the Minister of Health (see para. 18 of this Schedule, *post*).

*Service of notice.*—See para. 19 of this Schedule, *post*.

*Para. 3 (1) (b) and (c).*—The exceptions in sub-paras. (b) and (c) are intended to provide for the service of notice in cases where, owing to extensive war damage to the premises or other cause, the identity of the person to be served is not readily ascertainable. A direction of the confirming authority under sub-para. (b) is obtained on the application of the acquiring authority prior to submitting the order for confirmation, on the acquiring authority reporting their inability to effect normal service (H. of C. Official Report S.C.D., February 21, 1946, col. 148). No such direction is effective in respect of property belonging to a local authority, statutory undertakers or the National Trust, to which the added protection given by Part III of this Schedule applies.

*Public local inquiry.*—For provisions as to inquiries, see s. 5, *ante*. The alternative method of a hearing was not provided for by the Local Government Act, 1933 (26 Halsbury's Statutes 295).

*Definitions.*—For definitions of "land," "local authority," "National Trust," "owner" and "statutory undertakers," see s. 8 (1), *ante*.

## PART II

### *Purchases by Ministers*

7.—(1) A compulsory purchase order authorising a compulsory purchase by a Minister in a case falling within subsection (1) of section one of this Act shall be prepared in draft and made by the Minister in accordance with the following provisions of this Schedule.

(2) The order shall describe by reference to a map the land to which it applies.

(3) Subject as aforesaid, the form of the order shall be such as the Minister may determine.

(4) Paragraphs 3 to 6 of this Schedule shall have effect in relation to the order with the substitution, for references to the confirming authority and to the acquiring authority, of references to the Minister, and, for references to an order submitted and to the confirmation of an order of references to an order as prepared in draft and to the making of an order, and with the omission in sub-paragraph (3) of paragraph 4 of the reference to the acquiring authority, so however that the publication and service or affixing of notices required by paragraph 3 shall be effected as soon as may be after the draft of the order has been prepared, and the provisions of that paragraph as to the notice thereby required shall apply subject to such modifications of the form of the notice as appear to the Minister to be requisite. [631]

*Effect of Part II.*—This Part of the Schedule adapts the provisions of the previous Part relating to the authorisation of compulsory purchases of land by local authorities, to compulsory purchases by the Minister of Transport and the Minister of Civil Aviation (ss. 23 (6) and 26 of the Civil Aviation Act, 1946) and the Minister of Health under the National Health Service Act, 1946 (see s. 58 (3), *post*).

*Definition.*—For definition of "land," see s. 8 (1), *ante*.

## PART III

*Special provisions as to certain descriptions of land*

8. The following provisions of this Part of this Schedule shall have effect in the case of land of the descriptions specified in subsection (2) of section one of this Act.

9. A compulsory purchase order shall, in so far as it authorises the compulsory purchase of land which is the property of a local authority, or has been acquired by statutory undertakers, not being a local authority, for the purposes of their undertaking, or of land belonging to the National Trust which is held by the Trust inalienably, be subject to special parliamentary procedure in any case where an objection to the order has been duly made by the local authority or statutory undertakers or the National Trust, as the case may be, and has not been withdrawn.

10. Where a compulsory purchase order has been submitted or prepared and the land comprised in the order includes land which has been acquired by statutory undertakers for the purposes of their undertaking, then if on a representation made to the appropriate Minister before the expiration of the time within which objections to the order can be made the appropriate Minister is satisfied—

(a) that any of the said land is used for the purposes of the carrying on of their undertaking, or

(b) that an interest in any of the said land is held for those purposes,

the compulsory purchase order shall not be confirmed or made so as to authorise the compulsory purchase of any land as to which the appropriate Minister is satisfied as aforesaid except land as to which he is satisfied that its nature and situation are such—

(i) that it can be purchased and not replaced without serious detriment to the carrying on of the undertaking, or

(ii) that if purchased it can be replaced by other land belonging to, or available for acquisition by, the undertakers without serious detriment to the carrying on thereof,

and certifies accordingly.

11.—(1) In so far as a compulsory purchase order authorises the purchase of any land forming part of a common, open space or fuel or field garden allotment, the order shall be subject to special parliamentary procedure unless the Minister of Agriculture and Fisheries (in the case of a common or of a fuel or field garden allotment) or the Minister of Town and Country Planning (in the case of an open space not being a common or such an allotment) is satisfied—

(a) that there has been or will be given in exchange for such land other land, not being less in area and being equally advantageous to the persons, if any, entitled to rights of common or other rights, and to the public, and that the land given in exchange has been or will be vested in the persons in whom the land purchased was vested, and subject to the like rights, trusts and incidents as attach to the land purchased, or

(b) that the land is required for the widening of an existing highway and that the giving in exchange of other land is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public,

and certifies accordingly.

(2) Where it is proposed to give a certificate under this paragraph, the Minister having jurisdiction to give the certificate shall give public notice of his intention so to do, and—

(a) after affording opportunity to all persons interested to make representations and objections in relation thereto, and

(b) after causing a public local inquiry to be held in any case where it appears to him to be expedient so to do, having regard to any representations or objections made,

the said Minister may, after considering any representations and objections made and, if an inquiry has been held, the report of the person who held the inquiry, give the certificate.

(3) A compulsory purchase order may provide for vesting land given in exchange as mentioned in sub-paragraph (1) of this paragraph in the persons, and subject to the rights, trusts and incidents, therein mentioned, and for discharging the land purchased from all rights, trusts and incidents to which it was previously subject.

12. A compulsory purchase order, in so far as it authorises the purchase of land being, or being the site of, an ancient monument or other object of archaeological interest, shall be subject to special parliamentary procedure unless the Minister of Works certifies that the acquiring authority has entered into an undertaking with the Minister to observe such conditions as to the use of the land as in his opinion are requisite having regard to the nature thereof.

13. As soon as may be after the giving of a certificate under this Part of this Schedule, the local authority or Minister by whom the compulsory purchase order was submitted or prepared shall publish in one or more local newspapers circulating in the locality in which the land comprised in the order is situated a notice in the prescribed form stating that the certificate has been given.

14. In the case of land falling within two or more of the preceding paragraphs of this Part of this Schedule a compulsory purchase order shall be subject to special parliamentary procedure if required to be subject thereto by any of the said paragraphs. [632]

*Effect of Part III.*—This Part of the Schedule deals with the three special categories of land specified in s. 1 (2) which are excepted from the provisions of Parts I and II hereof but not from the orbit of compulsory purchase under s. 1 (1). These categories were formerly regularly excepted in Acts conferring powers of compulsory purchase. While they may now, under the provisions of this Act, be made the subject of compulsory purchase orders, the confirmation of such orders is subject to special parliamentary procedure under the Statutory Orders (Special Procedure) Act, 1945 (38 Halsbury's Statutes 439), in the case of land (a) belonging to a local authority or acquired by statutory undertakers for the purposes of their undertaking or which is held inalienably by the National Trust, provided that an objection has been made to the order and not withdrawn; (b) forming part of a common, open space, or fuel or field garden allotment, unless, in the first and third cases, the Minister of Agriculture and Fisheries or, in the second case, the Minister of Town and Country Planning, certifies in accordance with para. 11; (c) which is an ancient monument or other object of archaeological interest, unless the Minister of Works certifies in accordance with para. 12; and (d) which falls within two or more of paras. 8–13, provided that any of such paragraphs require the compulsory acquisition to be subject to the special procedure. In the case of land belonging to statutory undertakers, an additional safeguard is provided by para. 10.

*Prescribed form.*—See the Compulsory Purchase of Land Regulations, 1946 (S. R. & O., 1946, No. 578), *post*, made by the Minister of Health.

*Public local inquiry.*—For provisions as to public local inquiries, see s. 5, *ante*.

*Definitions.*—For definitions of "appropriate Minister," "ancient monument," "common," "fuel or field garden allotment," "held inalienably," "land," "local authority," "National Trust," "open space" and "statutory undertakers," see s. 8 (1), *ante*.

## PART IV

### *Validity and date of operation of compulsory purchase orders and certificates*

15.—(1) If any person aggrieved by a compulsory purchase order desires to question the validity thereof, or of any provision contained therein, on the ground that the authorisation of a compulsory purchase thereby granted is not empowered to be granted under this Act or any such enactment as is mentioned in subsection (1) of section one of this Act, or if any person aggrieved by a compulsory purchase order or a certificate under Part III of this Schedule desires to question the validity thereof on the ground that any requirement of this Act or of any regulation made thereunder has not been complied with in relation to the order or certificate, he may, within six weeks from the date on which notice of the confirmation or making of the order or of the giving of the certificate is first published in accordance with the provision of this Schedule in that behalf, make an application to the High Court, and on any such application the Court—

(a) may by interim order suspend the operation of the compulsory purchase order or any provision contained therein, or of the certificate, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings;

(b) if satisfied that the authorisation granted by the compulsory purchase order is not empowered to be granted as aforesaid, or that the interests of the applicant have been substantially prejudiced by any requirement of this

Schedule or of any regulation made thereunder not having been complied with, may quash the compulsory purchase order or any provision contained therein, or the certificate, either generally or in so far as it affects any property of the applicant.

(2) Except by leave of the Court of Appeal, no appeal shall lie to the House of Lords from a decision of the Court of Appeal under the last foregoing sub-paragraph.

16. Subject to the provisions of the last foregoing paragraph a compulsory purchase order or a certificate under Part III of this Schedule shall not, either before or after it has been confirmed, made or given, be questioned in any legal proceedings whatsoever, and shall become operative on the date on which notice is first published as mentioned in the last foregoing paragraph.

17. This Part of this Schedule shall not apply to an order which is confirmed by Act of Parliament under section six of the Statutory Orders (Special Procedure) Act, 1945, but except as aforesaid shall have effect in relation to a compulsory purchase order to which that Act applies as if in sub-paragraph (1) of paragraph 15 for the reference to the date on which notice of the confirmation or making of the order is first published in accordance with the provisions of this Schedule in that behalf there were substituted a reference to the date on which the order becomes operative under the Statutory Orders (Special Procedure) Act, 1945, and as if in paragraph 16 the words from "and shall become operative" to the end were omitted. [633]

*Effect of Part IV.*—The provisions of this Part correspond to those of s. 162 of the Local Government Act, 1933 (26 Halsbury's Statutes 396) but the period of two months allowed by that section for making application to the Court is now reduced to six weeks.

*Statutory Orders (Special Procedure) Act, 1945, s. 6.*—38 Halsbury's Statutes 444.

## PART V

### General

18. Anything required or authorised by this Schedule to be prescribed shall be prescribed by regulations made by the Minister of Health.

19.—(1) Any notice or other document required or authorised to be served under this Schedule may be served on any person either by delivering it to him, or by leaving it at his proper address, or by post, so however that the document shall not be duly served by post unless it is sent by registered letter.

(2) Any such document required or authorised to be served upon an incorporated company or body shall be duly served if it is served upon the secretary or clerk of the company or body.

(3) For the purposes of this paragraph and of section twenty-six of the Interpretation Act, 1889, the proper address of any person upon whom any such document as aforesaid is to be served shall, in the case of the secretary or clerk of any incorporated company or body, be that of the registered or principal office of the company or body, and in any other case be the last known address of the person to be served :

Provided that where the person to be served has furnished an address for service, his proper address for the purposes aforesaid shall be the address furnished.

(4) If the Minister having jurisdiction to confirm or make the order in connection with which the document is to be served is satisfied that reasonable inquiry has been made and that it is not practicable to ascertain the name or address of an owner, lessee or occupier of land on whom any such document as aforesaid is to be served, the document may be served by addressing it to him by the description of "owner", "lessee" or "occupier" of the land (describing it) to which it relates, and by delivering it to some person on the premises or, if there is no person on the premises to whom it may be delivered, by affixing it or a copy of it to some conspicuous part of the premises. [634]

The Minister has made the Compulsory Purchase of Land Regulations, 1946 (S. R. & O., 1946, No. 573), *post*, under this Schedule.

*Interpretation Act, 1889, s. 26.*—18 Halsbury's Statutes 1002.

*Definitions.*—For definitions of "land" and "owner," see s. 8 (1), *ante*.



## Section 1

## SECOND SCHEDULE

## INCORPORATION OF ENACTMENTS

## PART I

*The Lands Clauses Acts*

1. In relation to any compulsory purchase to which the provisions of the foregoing Schedule apply the Lands Clauses Acts are hereby incorporated with the enactment under which the purchase is authorised; and in construing those Acts as so incorporated—

- (a) the enactment under which the purchase is authorised and the compulsory purchase order shall be deemed to be the special Act;
- (b) references to the promoters of the undertaking shall be construed as references to the authority authorised by the compulsory purchase order to purchase the land.

2. The following sections of the Lands Clauses Consolidation Act, 1845, shall be excepted from incorporation as aforesaid, that is to say—

- (a) sections one hundred and twenty-seven to one hundred and thirty-two (which relate to the sale of superfluous land);
- (b) in the case of a purchase under the Housing Act, 1936, and in any other case in which the compulsory purchase order so provides, section one hundred and thirty-three (which relates to promoters making good deficiencies in land tax and rates); and
- (c) sections one hundred and fifty and one hundred and fifty-one (which relate to access to the special Act).

3.—(1) Where a local authority or Minister have been authorised in accordance with the provisions of section one of this Act to purchase any land compulsorily, then, at any time after serving notice to treat and after serving on the owner, lessee and occupier of the land not less than fourteen days' notice, the authority or Minister may enter on and take possession of the land or such part thereof as is specified in the notice without previous consent or compliance with sections eighty-four to ninety of the Lands Clauses Consolidation Act, 1845, but subject to the payment of the like compensation for the land of which possession is taken, and interest on the compensation awarded, as would have been payable if the provisions of those sections had been complied with.

(2) Where under this paragraph any notice is required to be served on an owner of land, and the land is ecclesiastical property as defined in paragraph 3 of the foregoing Schedule, a like notice shall be served on the Ecclesiastical Commissioners.

(3) Paragraph 19 of the foregoing Schedule shall apply to the service of notices under this paragraph.

4. The following provisions shall have effect in substitution for the provisions of section ninety-two of the Lands Clauses Consolidation Act, 1845, that is to say, no person shall be required to sell a part only of any house, building or manufactory, or of a park or garden belonging to a house, if he is willing and able to sell the whole of the house, building, manufactory, park or garden, unless the tribunal by whom the compensation is to be assessed determines that, in the case of a house, building or manufactory, such part as is proposed to be taken can be taken without material detriment to the house, building or manufactory, or, in the case of a park or garden, that such part as aforesaid can be taken without seriously affecting the amenity or convenience of the house, and, if the tribunal so determines, the tribunal shall award compensation in respect of any loss due to the severance of the part so proposed to be taken, in addition to the value of that part, and thereupon the party interested shall be required to sell to the acquiring authority that part of the house, building, manufactory, park or garden.

5. Any sums agreed upon or awarded for the purchase of land being ecclesiastical property as defined in paragraph 3 of the foregoing Schedule, or to be paid by way of compensation for damage sustained by reason of severance or injury affecting such land, shall not be paid as directed by the Lands Clauses Acts, but shall be paid



to the Ecclesiastical Commissioners to be applied for the purposes for which the proceeds of a sale by agreement of the land would be applicable under any enactment or Measure authorising such a sale or disposing of the proceeds of such a sale.

6. Notices required to be served by the acquiring authority may, notwithstanding anything in section nineteen of the Lands Clauses Consolidation Act, 1845, be served and addressed in the manner specified in paragraph 19 of the foregoing Schedule. [635]

*Special Act; Promoters of the undertaking.*—For definitions, see Lands Clauses Consolidation Act, 1845, s. 2 (2 Halsbury's Statutes 1113).

*Lands Clauses Acts.*—For these Acts, see 2 Halsbury's Statutes 1113 *et seq.*

*Lands Clauses Consolidation Act, 1845.*—2 Halsbury's Statutes 1113. For s. 19: *ibid.*, 1120; for ss. 84–90: *ibid.*, 1142–1145; for s. 92: *ibid.*, 1145; for ss. 127–132: *ibid.*, 1158–1160; for s. 133: *ibid.*, 1160; for ss. 150–151: *ibid.*, 1164.

*Housing Act, 1936.*—29 Halsbury's Statutes 565.

*Definitions.*—For definitions of "land," "local authority" and "owner," see s. 8 (1), *ante*.

## PART II

### *Railways Clauses Consolidation Act, 1845*

7.—(1) A compulsory purchase order may make provision for the incorporation with the enactment under which the purchase is authorised of section seventy-seven of the Railways Clauses Consolidation Act, 1845 (which relates to the exception of minerals from purchases), and sections seventy-eight to eighty-five of that Act (which relate to restrictions on the working of minerals) as originally enacted and not as amended for certain purposes by section fifteen of the Mines (Working Facilities and Support) Act, 1923, or the said section seventy-seven only.

(2) Such provision may be made as to all or any of the land to which the compulsory purchase order relates, and may include such modification of references in the said sections to the railway or works, or to the company, as may be specified in the order, and sub-paragraph (a) of paragraph 1 of this Schedule shall apply for the construction of the said sections as incorporated by the order. [636]

*Railways Clauses Consolidation Act, 1845, s. 77.*—14 Halsbury's Statutes 61; for ss. 78–85: *ibid.*, 61–64.

*Mines (Working Facilities and Support) Act, 1923, s. 15.*—*Ibid.*, 389.

*Definition.*—For definition of "land," see s. 8 (1), *ante*.

## PART III

### *Acquisition of Land (Assessment of Compensation) Act, 1919*

8. The arbitrator shall not take into account any interest in land, or any enhancement of the value of any interest in land by reason of any building erected, work done or improvement or alteration made, whether on the land purchased or on any other land with which the claimant is, or was at the time of the erection, doing or making of the building, works, improvement or alteration, directly or indirectly concerned, if the arbitrator is satisfied that the creation of the interest, the erection of the building, the doing of the work, the making of the improvement or the alteration, as the case may be, was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation. [637]

*Acquisition of Land (Assessment of Compensation) Act, 1919.*—2 Halsbury's Statutes 1176.

## PART IV

### *Purchases under Section 2*

9. In relation to a compulsory purchase authorised in accordance with section two of this Act, references in sub-paragraph (b) of paragraph 2 and in paragraph 7 of this Schedule, or in subsection (4) of section eighteen of the Town and Country Planning Act, 1944, to an order authorising a compulsory purchase of land shall be construed as references to the authorisation under section two of this Act. [638]

*Effect of Part IV.*—The effect of this Part and s. 2 (4), *ante*, is to place an authorisation in writing on the same footing as a compulsory purchase order in regard to certain sections of the Lands and Railways Clauses Acts which may be optionally incorporated in the Act under which the purchase is made.

*Town and Country Planning Act, 1944, s. 18 (4).*—37 Halsbury's Statutes 447.

## Section 2

## THIRD SCHEDULE

## PROVISIONS AS TO AUTHORISATIONS UNDER SECTION 2

1.—(1) No authorisation under section two of this Act shall be given with respect to land of any description specified in subsection (2) of section one thereof, or with respect to any dwelling house.

(2) In this paragraph the expression "dwelling house" means any building or part of a building in which persons are residing, and includes any other building or part of a building in which persons normally reside but from which they are temporarily absent.

2.—(1) Before an authorisation is given under section two of this Act the acquiring authority must—

(a) have published in one or more local newspapers circulating in the locality in which any of the land to which the authorisation relates is situated a notice stating that the confirming authority is about to take into consideration the giving of an authorisation under section two of this Act with respect to land described in the notice, being land consisting of or comprised in the land to which the authorisation relates, and that representations which any person desires to make must be made to the confirming authority in writing within fourteen days from the date of the publication of the notice; and

(b) have served on every owner and occupier of any of the land to which the authorisation relates a notice in writing stating that the confirming authority is about to take into consideration the giving of an authorisation as aforesaid, and that representations which any of the persons required to be served desires to make must be made to the confirming authority in writing within fourteen days from the date of the service of the notice on him.

(2) A notice under the last foregoing sub-paragraph may be served—

(a) on a person being an owner or occupier if the notice is addressed to him by name and is delivered to him or left at, or sent in a registered letter by post to, his usual or last known place of abode;

(b) on a person being an owner or occupier of any premises which appear to the acquiring authority to be separately occupied, by addressing the notice to "the owner and the occupier" of the premises (describing them), and either by delivering it to some person on the premises, or, if there is no person on the premises to whom it can be delivered, by affixing it to some conspicuous object on the premises;

(c) on all persons being owners or occupiers (if any) of premises comprised in land which appears to the acquiring authority to be unoccupied, by addressing the notice to "the owners and any occupiers" of the land (describing it), and by affixing it to some conspicuous object on the land.

(3) Where under sub-paragraph (1) of this paragraph any notice is required to be served on an owner of land, and the land is ecclesiastical property as defined in paragraph 3 of the First Schedule to this Act, a like notice shall be sent in a registered letter by post to the secretary of the Ecclesiastical Commissioners at their principal office.

3. Before giving an authorisation under section two of this Act the confirming authority shall consider any representations duly made to the authority; and as soon as may be after the authorisation has been given or the decision has been taken to refuse it the confirming authority shall send to any person who has made representations with respect thereto specifying an address for the purposes of this paragraph, notification thereof in a registered letter by post to the address specified.

4. Anything authorised or required by this Schedule or by section two of this Act to be done by, to or before the Board of Trade may be done by, to or before the President of the Board, any secretary, under-secretary or assistant secretary of the Board, or any person authorised in that behalf by the President. [639]

*Effect of Schedule.*—See Preliminary Note, *ante*.

*Definition.*—For definitions of "confirming authority" and "acquiring authority," see s. 2 (1), (2), *ante*; and for "land" and "owner," see s. 8 (1), *ante*.

## Section 6

## FOURTH SCHEDULE

## MINOR AND CONSEQUENTIAL AMENDMENTS

*Enactment amended*

The Explosives Act, 1875.  
(38 & 39 Vict. c. 17.)

The Public Parks (Scotland)  
Act, 1878.  
(41 & 42 Vict. c. 8.)

The Metropolitan Police Act,  
1886.  
(49 & 50 Vict. c. 22.)

The Military Lands Act,  
1892.  
(55 & 56 Vict. c. 43.)

The Burgh Police (Scotland)  
Act, 1892.  
(55 & 56 Vict. c. 55.)

*Amendments*

In section one hundred and thirteen, for the words from "shall have" to "by agreement" there shall be substituted the words "may be authorised by the Secretary of State to purchase land compulsorily", and the words from "that any local authority" to the end of the section shall be omitted.

In section six, for the words "regulations shall be observed", there shall be substituted the words "provisions shall have effect"; for paragraphs (1) and (2) there shall be substituted the following paragraphs:—

"(1) The local authority may purchase land by agreement in accordance with the provisions of the Lands Clauses Acts.

"(2) The local authority may be authorised by the Secretary of State to purchase land compulsorily";

and paragraphs (3) to (5) and the proviso shall cease to have effect.

Sections eight to eleven and the Schedule shall cease to have effect.

In section two, for the words "purchase and" there shall be substituted the words "purchased by agreement, or, if so authorised by the Minister of Health, compulsorily, or".

In section four, subsections (1) to (10) shall cease to have effect; and in subsection (11), after the word "Act" there shall be inserted the words "and of the Acquisition of Land (Authorisation Procedure) Act, 1946"; after the word "shall" where it first occurs there shall be inserted the words "with the necessary modifications", and for the words from "save that the provisions" to "Parliament" there shall be substituted the words "and where an order authorising the compulsory purchase under this Act of any such land has come into operation".

In section one, in subsection (3), for the words "and hold" there shall be substituted the words "by agreement or, if so authorised by the Secretary of State, compulsorily", and at the end there shall be added the words "and may hold land on that behalf".

Section two shall not apply to compulsory purchases by a local authority.

In section one hundred and eight, for the words from "acquire the said lands" to "hereinbefore provided" there shall be substituted the words "be authorised by the Secretary of State to purchase such lands and premises compulsorily".

In section one hundred and fifty-four, for the words from "present a petition" to "hereinbefore provided" there shall be substituted the words "be authorised by the Secretary of State to purchase such lands and premises compulsorily".

In section one hundred and ninety-three, for the words from "take such building" to "occupiers thereof" there shall be substituted the words "be authorised by the Secretary of State to purchase such

*Enactment amended**Amendments*

The Diseases of Animals Act,  
1894.  
(57 & 58 Vict. c. 57.)

building or land compulsorily" and for the words "such compensation" there shall be substituted the words "the compensation payable therefor".

Section two hundred and sixty-two shall cease to have effect.

In section three hundred and fifteen, for the words from "after resolution" to "not otherwise acquire" there shall be substituted the words "purchase by agreement and, if authorised by the Secretary of State, compulsorily", and for the word "acquire" where secondly occurring there shall be substituted the words "purchase by agreement and, if authorised by the Secretary of State, compulsorily."

In section thirty-three, in subsection (1), after the word "purchase" there shall be inserted the words "by agreement, or if so authorised by the Minister of Agriculture and Fisheries compulsorily", and subsection (3) shall cease to have effect.

For section sixty-one the following section shall be substituted:—

"61. A local authority may be authorised by the Secretary of State to purchase land compulsorily for any purpose mentioned in section thirty-three of this Act".

The Local Government  
(Scotland) Act, 1894.  
(57 & 58 Vict. c. 58.)

In section twenty-five, in subsection (2), for the words from "make a representation" to the end of the subsection there shall be substituted the words "be authorised by the Secretary of State to purchase land compulsorily"; subsections (3) to (16) shall cease to have effect.

The Public Health (Scotland) Act, 1897.  
(60 & 61 Vict. c. 38.)

In section one hundred and forty-five, for the words "The following regulations shall be observed" there shall be substituted the words "The provisions of the Acquisition of Land (Authorisation Procedure) Act, 1946, shall have effect" and paragraphs (1) to (15) shall cease to have effect.

The Burgh Police (Scotland) Act, 1903.  
(3 Edw. 7, c. 33.)

In section seventy-three, for the words from "shall be entitled" to the end of the section there shall be substituted the words "may be authorised by the Secretary of State to acquire the said ground and buildings compulsorily".

The Small Holdings and Allotments Act, 1908.  
(8 Edw. 7, c. 36.)

In section twenty-five, in subsection (1), at the end there shall be added the words "or may purchase such land compulsorily in accordance with the provisions of this Act and of the Acquisition of Land (Authorisation Procedure) Act, 1946, in that behalf", and subsection (2) shall cease to have effect.

In section thirty-nine, in subsection (1), for the words from "subject to" to the end of the subsection there shall be substituted the words "be authorised so to do by the Minister of Agriculture and Fisheries", in subsection (3) for the words "this section" there shall be substituted the words "the last foregoing subsection", and in subsection (4) for the words "under this section" there shall be substituted the words "for the compulsory purchase or hiring of land under this Act".

In section forty-one, in subsection (1), the words from "or which at that date" to the end shall be omitted.

In section forty-five, the words from "and the provisions" to the end shall be omitted.

*Enactment amended**Amendments*

The Local Government  
(Scotland) Act, 1908.  
(8 Edw. 7, c. 62.)

The Electric Lighting Act,  
1909.  
(9 Edw. 7, c. 34.)

The Development and Road  
Improvement Funds Act,  
1909.  
(9 Edw. 7, c. 47.)

The National Insurance Act,  
1913.  
(3 & 4 Geo. 5, c. 37.)

The Mental Deficiency and  
Lunacy (Scotland) Act,  
1913.  
(3 & 4 Geo. 5, c. 38.)

In the First Schedule, Part I shall cease to have effect in relation to compulsory purchase.

In section five, for subsections (2) and (3) the following subsection shall be substituted :—

“(2) A county council may be authorised by the Secretary of State to purchase land compulsorily for any of the aforesaid purposes”.

In section one, in subsection (1), after the word “person” there shall be inserted the words “or may by compulsory purchase order under the Acquisition of Land (Authorisation Procedure) Act, 1946, authorise any local authority, being, in either case, an authority, company or person”, and paragraph (c) of the First Schedule shall apply in relation to any compulsory purchase under the Act authorised by a compulsory purchase order.

In relation to acquisition by local authorities or by the Minister of Transport, the Act shall be amended as follows.

In section five, subsection (1) shall have effect with the substitution for the words from “and hold land” to the end of the subsection of the words “either by agreement or, if so authorised by the Secretary of State, Minister or Board in charge of the Department concerned with the said purpose, compulsorily, and hold land for the purpose; and the provisions of the Schedule to this Act shall have effect in relation to any compulsory acquisition under this section”; in subsection (2), the words from “or which at that date” to the end shall be omitted, and in subsection (3), for the words “The Commissioners in making an order for” there shall be submitted the words “The said Secretary, Minister or Board in authorising”.

In section eleven, so much of subsection (5) as precedes the proviso thereto shall have effect as if it provided that a highway authority may be authorised by the Minister of Transport to acquire compulsorily any land which they consider necessary for the purpose mentioned in subsection (3) of the section, that the Minister of Transport may acquire compulsorily any such land as is mentioned in subsection (1) thereof which he considers necessary, and that the provisions of the Schedule to the Act shall have effect in relation to any compulsory acquisition under the section.

Section nineteen shall cease to have effect.

In the Schedule, paragraphs 1 to 4 and 6 and 7 shall cease to have effect, in paragraph 5 after the word “order” there shall be inserted the words “authorising a compulsory purchase under this Act”, and in paragraph 8 the words from the first “the” to “and” shall cease to have effect.

In section forty-one, in subsection (1), for the words from “and the provisions” to the end of the subsection there shall be substituted the words, “and may be authorised by the Secretary of State to purchase land compulsorily for the said purpose”.

In section sixty-eight, for subsections (2) and (3) the following subsection shall be substituted :—

“(2) A district board of control may be authorised by the Secretary of State to purchase land

*Enactment amended*

The Education (Scotland)  
Act, 1918.  
(8 & 9 Geo. 5, c. 48.)

The Electricity (Supply)  
Act, 1919.  
(9 & 10 Geo. 5, c. 100.)

The Land Settlement (Facili-  
ties) Act, 1919.  
(9 & 10 Geo. 5, c. 59.)

The Public Libraries Act,  
1919.  
(9 & 10 Geo. 5, c. 93.)

The Housing (Scotland) Act,  
1925.  
(15 & 16 Geo. 5, c. 15.)

The Small Holdings and  
Allotments Act, 1926.  
(16 & 17 Geo. 5, c. 52.)

The Housing (Scotland) Act,  
1930.  
(20 & 21 Geo. 5, c. 40.)

The Land Drainage Act,  
1930.  
(20 & 21 Geo. 5, c. 44.)

*Amendments*

compulsorily for any such purpose as afore-  
said ”.

In section eleven, in subsection (3), after the word “ authorised ” there shall be inserted the words “ by the Secretary of State ” and the words from “ by means of an Order ” to the end of the subsection shall be omitted.

In section eleven, after the words “ this Act ” there shall be inserted the words “ or in any compulsory purchase order under the Acquisition of Land (Authorisation Procedure) Act, 1946 ”.

In section two, in subsection (1), for the words from the beginning to “ entered on land ” there shall be substituted the words “ Where the council authorised to purchase any land compulsorily under the principal Act have, by virtue of paragraph (3) of the Second Schedule to the Acquisition of Land (Authorisation Procedure) Act, 1946, entered on the land ”; in subsection (3) for the words “ under this section ” in the first place in which they occur there shall be substituted the words “ given in the circumstances mentioned in subsection (1) of this section, or given under the last foregoing subsection,” and the said words in the second place in which they occur shall be omitted.

The foregoing amendments shall not affect the application of the said section two in relation to the compulsory hiring of land or to an agreement to hire land.

In section twelve, subsection (3) shall not apply to land purchased compulsorily.

Subsections (1) to (3) of section twenty-eight shall not apply to the compulsory purchase of land by a local authority.

In section six, after the words “ may be authorised ” there shall be inserted the words “ by the Minister of Education ”, and the words from “ in the same manner ” to the end shall be omitted.

In section fifty-one, in subsection (1) for the words from “ by means of ” to the beginning of the proviso there shall be substituted the words “ by the Board ”.

Sections thirty-two and eighty-six to eighty-nine so far as relating to the compulsory purchase of land for the purposes of Part III of the Act shall cease to have effect.

In section four, for the words from “ a county council ” to “ such land ” there shall be substituted the words “ a county council may purchase land (whether situate within or without the county) by agreement or, if so authorised by the Minister, compulsorily, or may take such land on lease by agreement or, if the council are unable to obtain by agreement suitable land for the purpose,” and for the word “ acquisition ” there shall be substituted the word “ hiring ”.

In section seventeen, subsection (2) shall cease to have effect.

In section thirty-five, in subsection (1), the words from “ and the provisions ” to the end of the subsection shall cease to have effect.

In section forty-five, in subsection (2), after the word “ authorised ” there shall be inserted the words “ by the Minister ”, and the words from “ by means

*Enactment amended**Amendments*

The Town and Country  
Planning Act, 1932.  
(22 & 23 Geo. 5, c. 48.)

of " to the end of the subsection shall be omitted, and in subsection (3), the words "or any order made thereunder", and the words from "or which is vested" to the end of the subsection, shall be omitted.

The Fourth Schedule shall cease to have effect.

In section twenty-five, in subsection (2), for the words from the beginning of the subsection to the beginning of the proviso there shall be substituted the words "The responsible authority may be authorised by the Minister to purchase compulsorily any land which they are authorised by the foregoing provisions of this section to purchase; and the provisions of the Third Schedule to this Act shall have effect in relation to any compulsory purchase under this section", and subsections (3) and (6) shall cease to have effect.

In section thirty-five, in subsection (2), after the word "Act" where it first occurs there shall be inserted the words "and of the Acquisition of Land (Authorisation Procedure) Act, 1946".

Section forty-three shall cease to have effect in relation to compulsory purchase.

In the First Schedule, Part III shall cease to have effect.

In the Third Schedule, in Part I, paragraph 1 and paragraphs 4 to 6 shall cease to have effect; in paragraph 2, for the words from the beginning to "in respect of" there shall be substituted the words "An order authorising the compulsory purchase of", and in paragraph 3, for the words from the beginning to the end of sub-paragraph (ii) there shall be substituted the words "Part III of the Second Schedule to the Acquisition of Land (Authorisation Procedure) Act, 1946, shall have effect, in relation to the compulsory purchase of land under this Act, as if the following provision were included therein", and sub-paragraph (iv) shall cease to have effect; and Part II, except paragraph 3 and paragraph 4 in so far as it relates to appropriation, shall cease to have effect, and in the said paragraph 3 for the words "confirm an order for," there shall be substituted the word "authorise".

The Town and Country  
Planning (Scotland) Act,  
1932.  
(22 & 23 Geo. 5, c. 49.)

In section twenty-five, in subsection (2), for the words from the beginning of the subsection to the beginning of the proviso there shall be substituted the words "The responsible authority may be authorised by the Department to purchase compulsorily any land which they are authorised by the foregoing provisions of this section to purchase, and the provisions of the Third Schedule to this Act shall have effect in relation to any compulsory purchase under this section", and subsections (3) and (6) shall cease to have effect.

In section thirty-four, in subsection (2), after the word "Act" where it first occurs there shall be inserted the words "and of the Acquisition of Land (Authorisation Procedure) Act, 1946".

Section forty-two shall cease to have effect in relation to compulsory purchase.

In the First Schedule, Part III shall cease to have effect.

In the Third Schedule, in Part I, paragraph 1 and



*Enactment amended**Amendments*

The Children and Young  
Persons Act, 1933.  
(23 Geo. 5, c. 12.)

The Local Government Act,  
1933.  
(23 & 24 Geo. 5, c. 51.)

The Restriction of Ribbon  
Development Act, 1935.  
(25 & 26 Geo. 5, c. 47.)

paragraphs 4 to 6 shall cease to have effect; in paragraph 2, for the words from the beginning to "in respect of" there shall be substituted the words "An order authorising the compulsory purchase of", and in paragraph 3, for the words from the beginning to the end of sub-paragraph (ii) there shall be substituted the words "Part III of the Second Schedule to the Acquisition of Land (Authorisation Procedure) Act, 1946, shall have effect in relation to the compulsory purchase of land under this Act, as if the following provision were included therein"; and Part II, except paragraph 3 and paragraph 4 in so far as it relates to appropriation, shall cease to have effect, and in the said paragraph 3, for the words "confirm an order for," there shall be substituted the word "authorise".

In section ninety-six, subsection (5) shall have effect, in relation to the compulsory purchase of land, as if it provided that the council of a county borough or urban district may be authorised by the Minister of Health to purchase land compulsorily for the purposes of their functions under that Act.

In relation to the compulsory purchase of land in a case falling within subsection (1) of section one of this Act, the Act shall be amended as follows.

In section one hundred and fifty-nine, after the word "authorised", in each place where that word occurs, there shall be inserted the words "by the Minister".

Sections one hundred and sixty to one hundred and sixty-two shall cease to have effect.

In section one hundred and sixty-eight, in subsection (3), for the words from "make and submit to the Minister" to "under this section" there shall be substituted the words "be authorised by the Minister to purchase compulsorily the land or any part thereof, and the provisions of the Acquisition of Land (Authorisation Procedure) Act, 1946, shall have effect in relation to the compulsory purchase order authorising the purchase"; in paragraph (a), the reference to persons upon whom notices are required to be served shall be construed as a reference to owners, lessees and occupiers of the land in question, and in paragraph (b) of that subsection, for the words "in the order" there shall be substituted the words "with this section"; in subsection (4) and subsection (7), for the word "under" there shall be substituted the words "for the purposes of", and after the words "and this section" in the said subsection (7) there shall be inserted the words "and the provisions of the said Act of 1946".

Sections one hundred and seventy-four and one hundred and seventy-five shall cease to have effect.

In section one hundred and seventy-nine, paragraphs (a) to (c) and (g) shall cease to have effect.

The Sixth Schedule shall cease to have effect.

In section thirteen, in subsection (1), after the word "acquire" there shall be inserted the words "by agreement or, if so authorised by the Minister, compulsorily", and the words from "and if they are unable" to the beginning of the proviso shall be omitted; in the said proviso, for the words from the

*Enactment amended**Amendments*

beginning to "modifications" there shall be substituted "Provided that the modifications subject to which the Lands Clauses Acts and the Acquisition of Land (Assessment of Compensation) Act, 1919, shall apply in relation to a compulsory purchase under this section shall include the following"; in subsection (3), in paragraph (b), for the words "by means of a compulsory purchase order" there shall be substituted the words "under this section in accordance with the provisions of section one of the Acquisition of Land (Authorisation Procedure) Act, 1946", and subsections (5) and (6) shall cease to have effect.

In section fourteen, the expression "compulsory purchase order" shall mean an order made, or made and confirmed, in the like manner and subject to the like conditions as an order authorising a compulsory purchase under section thirteen, and notwithstanding anything in subsection (2) of section one of this Act or Part III of the First Schedule thereto a compulsory purchase order shall not be subject to special parliamentary procedure by reason only that it authorises the acquisition of any right such as is mentioned in subsection (1) of the said section fourteen, nor shall anything in the said Part III prevent the acquisition of any such right.

The Air Navigation Act,  
1936.

(26 Geo. 5 & 1 Edw. 8, c. 44.)

In section nine, in subsection (1), the words from "by means of" to "confirmed", and subsection (2), shall cease to have effect.

The First Schedule shall cease to have effect.

The Public Health Act,  
1936.

(26 Geo. 5 & 1 Edw. 8, c. 49.)

In section three hundred and six, for the words from "to purchase" to the beginning of the proviso there shall be substituted the words "by the Minister to purchase land compulsorily".

The Public Health (London)  
Act, 1936.

(26 Geo. 5 & 1 Edw. 8, c. 50.)

In section sixty-nine, for subsections (2) and (3) there shall be substituted the following subsections:—

"(2) The county council or a borough council may acquire by agreement any land for the purposes of this Part of this Act, and the county council may acquire any land for those purposes compulsorily if so authorised by the Minister of Health.

(3) In the last foregoing subsection the expression 'land' includes any right or easement in or over land.

(4) In relation to the acquisition by agreement of any land for the purposes of this Part of this Act the Lands Clauses Acts (except the provisions thereof with respect to the purchase and taking of land otherwise than by agreement) shall be incorporated with this Act; and

(a) the provisions of the said Acts so incorporated which would be applicable in the case of a purchase of land shall be applicable in the case of a purchase of a right or easement in or over land; and

(b) for the purposes of this Part of this Act the expression 'the promoters of the undertaking', wherever used in the Lands Clauses Acts, shall be construed as meaning the county council or the borough council, as the case may be".

In section one hundred and sixty-eight, in sub-

*Enactment amended**Amendments*

The Housing Act, 1936.  
(26 Geo. 5 & 1 Edw. 8, c. 51.)

section (2), for the words from "to acquire" to the end of the proviso there shall be substituted the words "by the Minister to purchase land compulsorily for the purposes of this Part of this Act".

The Third Schedule shall cease to have effect.

In section seventy-four, in subsection (1), for the words from "by means of" to the end of the subsection there shall be substituted the words "by the Minister", and subsection (4) shall cease to have effect.

Section seventy-five shall cease to have effect.

Subsection (2) of section one hundred and forty-two, sections one hundred and forty-three and one hundred and forty-four, and subsection (1) of section one hundred and forty-five, shall cease to have effect as respects the compulsory acquisition of land under Part V of the Act.

The Trunk Roads Act, 1936.  
(1 Edw. 8 & 1 Geo. 6, c. 5.)

In the Fourth Schedule, in paragraph 6, in subparagraph (a), for the words "by them and confirmed" shall be substituted the words "if so authorised by the Minister", and paragraph (b) shall cease to have effect.

The Harbours, Piers and  
Ferries (Scotland) Act,  
1937.  
(1 Edw. 8 & 1 Geo. 6, c. 28.)

In section two, in subsection (1), after the word "may" there shall be inserted the words "be authorised by the Secretary of State to", and the words from "by means of" to the end of the subsection shall be omitted; in subsection (2), for the words from "and may purchase" to the end of the subsection there shall be substituted the words "and may be authorised by the Secretary of State to purchase the marine work compulsorily", and subsection (3) shall cease to have effect.

The First Schedule shall cease to have effect.

The Children and Young  
Persons (Scotland) Act,  
1937.  
(1 Edw. 8 & 1 Geo. 6, c. 37.)

In section one hundred and one, subsection (6) shall have effect in relation to the compulsory purchase of land as if it provided that a local authority or an education authority may be authorised by the Secretary of State to purchase land compulsorily for the purposes of any powers or duties conferred or imposed on them by that Act.

The Physical Training and  
Recreation Act, 1937.  
(1 Edw. 8 & 1 Geo. 6, c. 46.)

In section five, in subsection (1), for the words from "may purchase" to the end of the subsection there shall be substituted the words "may be authorised by the Minister of Health to purchase land compulsorily".

In section ten, in subsection (6), after the word "acquire" there shall be inserted the words "by agreement or, if so authorised by the Secretary of State, compulsorily" and the words from "and if they" to the end of the subsection shall be omitted.

The Air-Raid Precautions  
Act, 1937.  
(1 & 2 Geo. 6, c. 6.)

In section five, for the words from "purchase land compulsorily" to the end of the section there shall be substituted the words "be authorised by the Secretary of State to purchase land compulsorily for any of the purposes of this Act".

In section thirteen, in subsection (9), after the word "acquire" there shall be inserted the words "by agreement or, if so authorised by the Secretary of State, compulsorily" and the words from "and where they" to the end of the subsection shall be omitted.

*Enactment amended**Amendments*

The Fire Brigades Act,  
1938.  
(1 & 2 Geo. 6, c. 72.)

In section one, in subsection (6), in paragraph (b), for the words "by means of an order made by the authority and confirmed" there shall be substituted the words "if authorised in that behalf".

In section twenty-seven, subsection (3) shall cease to have effect.

In section twenty-eight, in subsection (18), for the words from "shall have" to the end of the subsection there shall be substituted the words "may acquire by agreement, or, if so authorised by the Secretary of State, compulsorily, land for the purposes of their powers and duties under this Act".

The Civil Defence Act, 1939.  
(2 & 3 Geo. 6, c. 31.)

In section sixty-three, subsection (1) shall cease to have effect, and subsection (2) shall have effect as if it provided that notwithstanding anything in this Act an order for the compulsory acquisition of land under section five of the Air Raid Precautions Act, 1937 (either as originally enacted or as amended or applied by any provision of the Civil Defence Act, 1939), may, if the Minister thinks fit, be confirmed without public local inquiry or hearing, whether or not there has been an objection.

The London Government  
Act, 1939.  
(2 & 3 Geo. 6, c. 40.)

In section one hundred, after the word "authorised" there shall be inserted the words "by the Minister".

Sections one hundred and one to one hundred and five shall cease to have effect.

In section one hundred and fourteen, in subsection (1), paragraphs (a) and (c) shall cease to have effect, and paragraph (b) of that subsection and subsection (2) shall not apply to the compulsory purchase of land in a case falling within subsection (1) of section one of this Act.

The Education Act, 1944.  
(7 & 8 Geo. 6, c. 31.)

The Fourth Schedule shall cease to have effect.

In section ninety, in subsection (1), for the words "by means of an order made by the authority and confirmed by the Minister" there shall be substituted the words "by the Minister", and the words from "and with respect to" to the beginning of the proviso shall be omitted, and in the proviso for the words "confirm a compulsory purchase order for" there shall be substituted the word "authorise".

The Housing (Temporary  
Provisions) Act, 1944.  
(7 & 8 Geo. 6, c. 33.)

In section two, for the reference to the First Schedule to the Housing Act, 1936, there shall be substituted a reference to the First Schedule to this Act, and for the words "causing a public local inquiry to be held" there shall be substituted the words "public local inquiry or hearing".

The Housing (Scotland) Act,  
1944.  
(7 & 8 Geo. 6, c. 39.)

In section two, for the reference to the Second Schedule to the Housing (Scotland) Act, 1930, there shall be substituted a reference to the First Schedule to this Act, and for the words "causing a public local inquiry to be held" there shall be substituted the words "public local inquiry or hearing".

The Water Act, 1945.  
(8 & 9 Geo. 6, c. 42.)

In relation to local authorities, the Act shall be amended as follows:

In section twenty-four, in subsection (4), the words "by means of a compulsory purchase order made by them and confirmed", and subsections (5) to (9) shall cease to have effect.

The Second Schedule shall cease to have effect.

In the Third Schedule, in section 7, in subsection

*Enactment amended*

The Requisitioned Land and  
War Works Act, 1945.  
(8 & 9 Geo. 6, c. 43.)

The Water (Scotland) Act,  
1946.  
(9 & 10 Geo. 6, c. 42.)

The Police Act, 1946.  
(9 & 10 Geo. 6, c. 46.)

*Amendments*

(1), the words "by means of a compulsory purchase order made by the undertakers and confirmed" shall cease to have effect; for the reference to the Second Schedule there shall be substituted a reference to this Act, and the words "order made" shall cease to have effect.

In section twenty-six, in subsection (1), the words "by means of an order made by them and confirmed" shall be omitted.

In section twenty-seven, in subsection (1), for the words from the beginning to the end of paragraph (b) there shall be substituted the words "The provisions of the First Schedule to the Acquisition of Land (Authorisation Procedure) Act, 1946, shall apply in relation to a purchase of land authorised under this Part of this Act subject to the following modifications, that is to say"; in sub-paragraph (i) of paragraph (c) of the said subsection (1), for the words "subsection (3) of the said section one hundred and sixty-one" there shall be substituted the words "paragraph 3 of the said First Schedule", and in sub-paragraph (ii) of the said paragraph (c), for the words "without causing a local inquiry to be held" there shall be substituted the words "authorising a compulsory purchase without public local inquiry or hearing"; and subsection (2) shall cease to have effect.

In section fifty-five, in paragraph (a), for the reference to paragraph 4 of the Fourth Schedule to the Land Drainage Act, 1930, there shall be substituted a reference to paragraph 3 of the First Schedule to this Act, and in paragraph (b), for the words "causing a public inquiry to be held" there shall be substituted the words "public local inquiry or hearing".

In section twenty, in subsection (4), the words "by means of a compulsory purchase order made by them and confirmed", and the words "under this section", and subsections (5) to (8) shall cease to have effect, and for subsection (9) there shall be substituted the following subsection—

"(9) A local water authority may be authorised by the Secretary of State to purchase compulsorily, or may acquire by agreement, land for giving in exchange for land belonging to the National Trust for Scotland for Places of Historic Interest or Natural Beauty which is inalienable under section twenty-two of the Order confirmed by the National Trust for Scotland Order Confirmation Act, 1935, or for any land forming part of a common or open space, which they are authorised under this section to purchase compulsorily".

The Second Schedule shall cease to have effect.

In the Fourth Schedule, in section 7, in subsection (1), the words "by means of a compulsory purchase order made by the undertakers and confirmed" shall cease to have effect; for the reference to the Second Schedule there shall be substituted a reference to this Act, and the words "order made" shall cease to have effect.

In section five, in subsection (3), after the words "Local Government Act, 1933", there shall be inserted the words "and the Acquisition of Land (Authorisation Procedure) Act, 1946".

## Enactment amended

## Amendments

In section fifteen, the words "by means of an order made by the council and confirmed" shall cease to have effect. [640]

*Effect of Schedule.*—The amendments specified in this Schedule are necessary to align the procedure under the enactments amended with that provided by this Act.

- Metropolitan Police Act, 1886, ss. 2 and 4.*—12 Halsbury's Statutes 839, 840.  
*Military Lands Act, 1892, ss. 1 and 2.*—17 Halsbury's Statutes 575.  
*Diseases of Animals Act, 1894, s. 33.*—1 Halsbury's Statutes 407.  
*Small Holdings and Allotments Act, 1908, ss. 25, 39, 41 and 45 and the First Schedule, Part I.*—1 Halsbury's Statutes 259, 266, 268, 270, 280.  
*Electric Lighting Act, 1909, s. 1.*—7 Halsbury's Statutes 744.  
*Development and Road Improvement Funds Act, 1909, ss. 5, 11, 19 and the Schedule.*—9 Halsbury's Statutes 211, 214, 216, 217.  
*Electricity (Supply) Act, 1919, s. 11.*—7 Halsbury's Statutes 758.  
*Land Settlement (Facilities) Act, 1919, ss. 2, 12 and 28.*—1 Halsbury's Statutes 288, 291, 298.  
*Public Libraries Act, 1919, s. 6.*—13 Halsbury's Statutes 969.  
*Small Holdings and Allotments Act, 1926, ss. 4 and 17.*—1 Halsbury's Statutes 324, 331.  
*Land Drainage Act, 1930, s. 45 and the Fourth Schedule.*—23 Halsbury's Statutes 562, 591.  
*Town and Country Planning Act, 1932, ss. 25, 35, 43 and the First and Third Schedules.*—25 Halsbury's Statutes 502, 506, 511, 525, 529.  
*Children and Young Persons Act, 1933, s. 96.*—26 Halsbury's Statutes 232.  
*Local Government Act, 1935, ss. 159, 160-162, 168, 174, 175, 179 and the Sixth Schedule.*—26 Halsbury's Statutes 392, 393-396, 398, 401, 402, 403, 508.  
*Restriction of Ribbon Development Act, 1935, ss. 13 and 14.*—28 Halsbury's Statutes 91, 93.  
*Air Navigation Act, 1936, s. 9 and the First Schedule.*—29 Halsbury's Statutes 824, 840.  
*Public Health Act, 1936, s. 306.*—29 Halsbury's Statutes 517.  
*Public Health (London) Act, 1936, ss. 69, 168 and the Third Schedule.*—30 Halsbury's Statutes 482, 538, 612.  
*Housing Act, 1936, ss. 74, 75, 142-145.*—29 Halsbury's Statutes 621, 622, 662-663.  
*Trunk Roads Act, 1936, Fourth Schedule.*—29 Halsbury's Statutes 214.  
*Physical Training and Recreation Act, 1937, s. 5.*—30 Halsbury's Statutes 714.  
*Air-Raid Precautions Act, 1937, s. 5.*—30 Halsbury's Statutes 1028.  
*Fire Brigades Act, 1938, ss. 1 and 27.*—31 Halsbury's Statutes 586, 601.  
*Civil Defence Act, 1939, s. 63.*—32 Halsbury's Statutes 874.  
*London Government Act, 1939, ss. 100, 101-105, 114 and the Fourth Schedule.*—32 Halsbury's Statutes 306, 307-310, 312, 373.  
*Education Act, 1944, s. 90.*—37 Halsbury's Statutes 201.  
*Housing (Temporary Provisions) Act, 1944, s. 2.*—37 Halsbury's Statutes 414.  
*Water Act, 1945, s. 24, Scheds. II, III.*—38 Halsbury's Statutes 513, 540, 541.  
*Requisitioned Land and War Works Act, 1945, ss. 26, 27 and 55.*—38 Halsbury's Statutes 605, 606, 621.

## Section 9

## FIFTH SCHEDULE

## PUBLIC LOCAL INQUIRIES IN SCOTLAND [641]

## Section 10

## SIXTH SCHEDULE

## ENACTMENTS REPEALED

Session and Chapter	Short title	Extent of repeal
41 & 42 Vict. c. 8.	The Public Parks (Scotland) Act, 1878.	In section six, paragraphs (3) to (5) and the proviso; sections eight to eleven and the Schedule.
49 & 50 Vict. c. 22.	The Metropolitan Police Act, 1886.	In section four, subsections (1) to (10).
55 & 56 Vict. c. 43.	The Military Lands Act, 1892.	In section two, in paragraph (7), the words "or the council of a county or borough" and the words "or council", wherever they occur, and in paragraph (9), the words "or by a council of a county or borough"; in section eight, in subsection (3), the proviso.
55 & 56 Vict. c. 55.	The Burgh Police (Scotland) Act, 1892.	Sections sixty and two hundred and sixty-two.
57 & 58 Vict. c. 57.	The Diseases of Animals Act, 1894.	In section thirty-three, subsection (3).

Session and Chapter	Short title	Extent of repeal
57 & 58 Vict. c. 58.	The Local Government (Scotland) Act, 1894.	In section twenty-five, subsections (3) to (16).
60 & 61 Vict. c. 38.	The Public Health (Scotland) Act, 1897.	In section one hundred and forty-five, paragraphs (1) to (15).
8 Edw. 7, c. 36.	The Small Holdings and Allotments Act, 1908.	In section twenty-five, subsection (2); in section forty-one, in subsection (1), the words from "or which at that date" to the end; in section forty-five, the words from "and the provisions" to the end.
9 & 10 Geo. 5, c. 93.	The Public Libraries Act, 1919.	In section six, the words from "in the same manner" to the end.
15 & 16 Geo. 5, c. 15.	The Housing (Scotland) Act, 1925.	In section fifty-one, in subsection (1), the proviso; sections eighty-six to eighty-nine so far as relating to the compulsory purchase of land for the purpose of Part III of the Act.
16 & 17 Geo. 5, c. 52.	The Small Holdings and Allotments Act, 1926.	In section seventeen, subsection (2).
20 & 21 Geo. 5, c. 40.	The Housing (Scotland) Act, 1930.	Section thirty-five; in the Second Schedule, in the Heading to Part I, the words from "and subject" to the end of the heading, and Part II.
20 & 21 Geo. 5, c. 50.	The Public Works Facilities Act, 1930.	The whole Act.
20 & 21 Geo. 5, c. 44.	The Land Drainage Act, 1930.	In section forty-five, in subsection (2), the words from "by means of" to the end, and in subsection (3), the words "or any order made thereunder", and the words from "or which is vested" to the end; the Fourth Schedule.
22 & 23 Geo. 5, c. 48.	The Town and Country Planning Act, 1932.	In section twenty-five, subsections (3) and (6); in the First Schedule, Part III; and in the Third Schedule, in Part I, paragraphs 1, 3 (iv) and 4 to 6, and Part II except paragraphs 3 and 4.
22 & 23 Geo. 5, c. 49.	The Town and Country Planning (Scotland) Act, 1932.	In section twenty-five, subsections (3) and (6); in the First Schedule, Part III; and in the Third Schedule, in Part I, paragraphs 1 and 4 to 6, and Part II except paragraphs 3 and 4.
25 & 26 Geo. 5, c. 41.	The Housing (Scotland) Act, 1935.	Section sixty-four; in the Fifth Schedule, Part I so far as relating to Part II of the Second Schedule to the Housing (Scotland) Act, 1930.



Session and Chapter	Short title	Extent of repeal
25 & 26 Geo. 5, c. 47.	The Restriction of Ribbon Development Act, 1935.	In section thirteen, in subsection (1), the words from "and if they are unable" to the beginning of the proviso, and subsections (5) and (6); in section twenty-five, paragraphs (7) and (8).
26 Geo. 5 & 1 Edw. 8, c. 44.	The Air Navigation Act, 1936.	In section nine, in subsection (1), the words from "by means of" to "confirmed", and subsection (2); in section thirty-two, paragraphs (6) and (7); the First Schedule.
26 Geo. 5 & 1 Edw. 8, c. 50.	The Public Health (London) Act, 1936.	The Third Schedule.
26 Geo. 5 & 1 Edw. 8, c. 51.	The Housing Act, 1936.	In section seventy-four, subsection (4); section seventy-five.
1 Edw. 8 & 1 Geo. 6, c. 5.	The Trunk Roads Act, 1936.	In section twelve, subsection (19); in the Fourth Schedule, in paragraph 6, sub-paragraph (b).
1 Edw. 8 & 1 Geo. 6, c. 28.	The Harbours, Piers and Ferries (Scotland) Act, 1937.	In section two, subsection (3); the First Schedule.
1 & 2 Geo. 6, c. 72.	The Fire Brigades Act, 1938.	In section twenty-seven, subsection (3).
2 & 3 Geo. 6, c. 31.	The Civil Defence Act, 1939.	In section sixty-three, subsection (1). In section ninety-one, in subsection (22), the words "and to the Local Government Act, 1933"; the word "respectively", and the words from "and to the enactments" to the end of the subsection.
2 & 3 Geo. 6, c. 40.	The London Government Act, 1939.	Sections one hundred and one to one hundred and five; in section one hundred and fourteen, paragraphs (a) and (c); in section one hundred and eighty-eight, the proviso to subsection (1); and the Fourth Schedule.
7 & 8 Geo. 6, c. 31.	The Education Act, 1944.	In section ninety, in subsection (1), the words from "and with respect to" to the beginning of the proviso.
7 & 8 Geo. 6, c. 47.	The Town and Country Planning Act, 1944.	In section fifty-three, in subsection (1), the words from the beginning to "but" in the proviso, and subsection (2).
8 & 9 Geo. 6, c. 33.	The Town and Country Planning (Scotland) Act, 1945.	In section fifty-one, in subsection (1), the words from the beginning to "but" in the proviso, and subsection (2).
8 & 9 Geo. 6, c. 37.	The Education (Scotland) Act, 1945.	The Fourth Schedule, so far as relating to section eleven of the Education (Scotland) Act, 1918.

Session and Chapter	Short title	Extent of repeal
8 & 9 Geo. 6, c. 43.	The Requisitioned Land and War Works Act, 1945.	In section twenty-six, in subsection (1), the words "by means of an order made by them and confirmed"; in section twenty-seven, subsection (2); in section sixty, subsection (10).
9 & 10 Geo. 6, c. 42.	The Water (Scotland) Act, 1946.	In section twenty, in subsection (4), the words "by means of a compulsory purchase order made by them and confirmed", and the words "under this section", and subsections (5) to (8); the Second Schedule. In the Fourth Schedule, in section 7, in subsection (1), the words "by means of a compulsory purchase order made by the undertakers and confirmed" and the words "order made". [642]

*Effect of Schedule.*—The repeals specified in this Schedule are necessary to align the procedure under these Acts with that provided by this Act.

*Metropolitan Police Act*, 1886, s. 4.—12 Halsbury's Statutes 840.

*Military Lands Act*, 1892, ss. 2, 8.—17 Halsbury's Statutes 575, 579.

*Diseases of Animals Act*, 1894, s. 33.—1 Halsbury's Statutes 407.

*Small Holdings and Allotments Act*, 1908, ss. 25, 41 and 45.—1 Halsbury's Statutes 259, 268, 270.

*Public Libraries Act*, 1919, s. 6.—13 Halsbury's Statutes 969.

*Small Holdings and Allotments Act*, 1926, s. 17.—1 Halsbury's Statutes 331.

*Public Works Facilities Act*, 1930.—23 Halsbury's Statutes 769.

*Land Drainage Act*, 1930, s. 45 and the *Fourth Schedule*.—23 Halsbury's Statutes 562, 591.

*Town and Country Planning Act*, 1932, s. 25 and the *First and Third Schedules*.—25 Halsbury's Statutes 502, 525, 529.

*Restriction of Ribbon Development Act*, 1935, s. 13.—28 Halsbury's Statutes 91.

*Air Navigation Act*, 1936, ss. 9, 32 and the *First Schedule*.—29 Halsbury's Statutes 824, 837, 840.

*Public Health (London) Act*, 1936, the *Third Schedule*.—30 Halsbury's Statutes 612.

*Housing Act*, 1936, ss. 74 and 75.—29 Halsbury's Statutes 621, 622.

*Trunk Roads Act*, 1936, s. 12 and the *Fourth Schedule*.—29 Halsbury's Statutes 197, 214.

*Fire Brigades Act*, 1938, s. 27.—31 Halsbury's Statutes 601.

*Civil Defence Act*, 1939, s. 63.—32 Halsbury's Statutes 874.

*London Government Act*, 1939, ss. 101–105, 114, 188 and the *Fourth Schedule*.—32 Halsbury's Statutes 306–310, 312, 343, 373.

*Education Act*, 1944, s. 90.—37 Halsbury's Statutes 201.

*Town and Country Planning Act*, 1944, s. 53.—37 Halsbury's Statutes 472.

*Requisitioned Land and War Works Act*, 1945, ss. 26, 27, 60.—38 Halsbury's Statutes 605, 606, 626.

## ORDERS, CIRCULARS AND MEMORANDA

### THE REQUISITIONED LAND (INCREASE OF COMPENSATION) (APPOINTED DAY) ORDER, 1946

*S. R. & O.*, 1946, No. 128

January 24, 1946

The Lords Commissioners of His Majesty's Treasury, in pursuance of the power conferred upon them by sub-section (2) of Section 45 of the

Requisitioned Land and War Works Act, 1945, hereby make the following Order :—

1. The 24th day of February, 1946, shall be the appointed day for the purposes of Section 45 of the Requisitioned Land and War Works Act, 1945.

2. This Order may be cited as the Requisitioned Land (Increase of Compensation) (Appointed Day) Order. [644]

\* \* \* \* \*

THE COMPULSORY PURCHASE OF LAND REGULATIONS,  
1946

*S. R. & O.*, 1946, No. 573

*April 18, 1946*

The Minister of Health, in exercise of the powers conferred on him by the first schedule to the Acquisition of Land (Authorisation Procedure) Act, 1946, and of all other powers enabling him in that behalf, hereby makes the following regulations :—

1. These Regulations may be cited as the Compulsory Purchase of Land Regulations, 1946. [645]

2. The forms set out in the schedule hereto or forms substantially to the like effect shall be the forms to be used for the purpose of the first schedule to the Acquisition of Land (Authorisation Procedure) Act, 1946, in the cases to which those forms are applicable. [646]

## SCHEDULE

## FORM No. 1

## FORM OF COMPULSORY PURCHASE ORDER

THE (\*) ACT, , AND  
THE ACQUISITION OF LAND (AUTHORISATION PROCEDURE) ACT, 1946.

The  
hereby make the following order :—

1. Subject to the provisions of this order the said \_\_\_\_\_ are hereby authorised to purchase compulsorily [on behalf of the parish council of \_\_\_\_\_] for the purpose of (†) the land which is described in the schedule hereto and is delineated and coloured \_\_\_\_\_ on a map marked \_\_\_\_\_ and sealed with the seal of, and deposited at the offices of, the said (‡)

[2. For the purposes of this order section 133 of the Lands Clauses Consolidation Act, 1845, shall not be incorporated with the enactment under which the foregoing purchase is authorised.] (§)

[3. Section 77 of the Railways Clauses Consolidation Act, 1845 [and sections 78 to 85 of that Act as originally enacted and not as amended for certain purposes by section 15 of the Mines (Working Facilities and Support) Act, 1923], are hereby incorporated with the enactment under which the foregoing purchase is authorised, subject to the following modifications:—(1)

4. This order may be cited as the Compulsory Purchase Order, 19 .

## THE SCHEDULE

Number on Map (1)	Quantity, description and situation of the land (2)	Owners or Reputed Owners (3)	Lessees or Reputed Lessees (4)	Occupiers (other than tenants for a month or less period than a month) (5)

*Note.*—Cols. 3, 4 and 5 need not be completed in the case of any land in respect of which the confirming authority has dispensed with service on owners, lessees and occupiers under paragraph 3 (1) (b) of the first schedule to the Act of 1946.

Given under the seal of the  
day of

in the year nineteen hundred and

(\*) Insert short title of Act authorising compulsory purchase.

(†) Insert title of order.

(‡) Insert name of authority making the order.

(§) This provision should be omitted in the case of an order under Part V of the Housing Act, 1936, and is optional in other cases.

(||) This paragraph may be omitted or may be inserted with or without the reference to sections 78 to 85.

## FORM No. 2

## FORM OF ADVERTISEMENT OF THE MAKING OF A COMPULSORY PURCHASE ORDER

THE (\*) ACT, , AND  
THE ACQUISITION OF LAND (AUTHORISATION PROCEDURE) ACT, 1946.

Notice is hereby given that the  
in exercise of the powers conferred on them by the above-mentioned Acts on the  
day of 19 , made a  
compulsory purchase order entitled the  
which is about to be submitted to the for con-  
firmation, authorising them to purchase compulsorily [on behalf of the parish  
council of ]  
for the purpose of  
the land described in the schedule hereto. A copy of the order and of the map  
referred to therein have been deposited at  
and may be seen there at all reasonable hours.

Any objection to the order must be made in writing and addressed to (†)

before the (‡) day of 19 , and should  
state the grounds of objection.

## SCHEDULE

(Here insert description of land comprised in the order.)

Dated the day of , 19 .

Signature of appropriate authorised  
officer of authority making the  
order.

(\*) Insert short title of Act authorising compulsory purchase.

(†) Insert name and address of confirming authority.

(‡) Insert date at least 21 days from the first publication of the notice.

## FORM No. 3

FORM OF NOTICE TO OWNERS, LESSEES AND OCCUPIERS OF THE MAKING OF A  
COMPULSORY PURCHASE ORDER, OTHERWISE THAN ON BEHALF OF A PARISH  
COUNCIL

THE (\*) ACT, , AND  
THE ACQUISITION OF LAND (AUTHORISATION PROCEDURE) ACT, 1946.

Take notice that the  
in exercise of the powers conferred on them by the above-mentioned Acts on the  
day of , 19 , made a compulsory  
purchase order entitled the which is about to be  
submitted to the for confirmation, authorising them to  
purchase compulsorily for the purpose of the land  
described in the schedule hereto.

A copy of the order and of the map referred to therein have been deposited  
at  
and may be seen there at all reasonable hours.

Any objection to the order must be made in writing and addressed to (†)

before the (‡) day of 19 , and  
should state the grounds of objection.

[If the order, having been made under Part V of the Housing Act, 1936, is  
submitted to the Minister of Health before the 3rd August, 1946, the Minister, under  
section 2 of the Housing (Temporary Provisions) Act, 1944, as amended by the  
Acquisition of Land (Authorisation Procedure) Act, 1946, may, after considering  
any objections, confirm the order (with or without modifications) without a public  
local inquiry or hearing.] (§)

[If no objection is duly made by an owner, lessee or occupier, or if all objections  
so made are withdrawn, or if the confirming authority is satisfied that every objection  
duly made relates exclusively to matters which can be dealt with by the tribunal  
by whom the compensation is to be assessed, the confirming authority may, if it  
thinks fit, confirm the order with or without modifications. In any other case where  
an objection has been duly made by an owner, lessee or occupier (other than a  
tenant for a month or less) the confirming authority is required, before confirming  
the order, either to cause a public local inquiry to be held or to afford to the objector  
an opportunity of appearing before and being heard by a person appointed by the  
confirming authority for that purpose, and may then, after considering the objection  
and the report of the person who held the inquiry or the person appointed as afore-  
said, confirm the order with or without modifications.] (||)

## SCHEDULE

(Here insert description of land comprised in the order.)

Dated the day of , 19 .

Signature of authorised officer  
of authority making the  
order.

(\*) Insert short title of Act authorising compulsory purchase.

(†) Insert name and address of confirming authority.

(‡) Insert date at least 21 days from the service of the notice.

(§) Omit if not applicable.

(||) Omit if preceding paragraph is applicable.

## FORM No. 4

FORM OF NOTICE TO OWNERS, LESSEES AND OCCUPIERS OF THE MAKING OF A  
COMPULSORY PURCHASE ORDER ON BEHALF OF A PARISH COUNCILTHE LOCAL GOVERNMENT ACT, 1933, AND  
THE ACQUISITION OF LAND (AUTHORISATION PROCEDURE) ACT, 1946

Take notice that the county council of  
in exercise of the powers conferred on them by the above-mentioned Acts on the  
day of , 19 , made a compulsory  
purchase order which is about to be submitted to the Minister of Health for con-  
firmation, authorising them to purchase compulsorily on behalf of the parish council  
of for the purpose of  
the land described in the schedule hereto.

A copy of the order and of the map referred to therein have been deposited  
at  
and may be seen there at all reasonable hours.

Any objection to the order must be made in writing and addressed to the  
Minister of Health before the (\*) day of  
19 .

If no objection is duly made by an owner, lessee or occupier, or if all objections  
so made are withdrawn, the Minister is required to confirm the order with or without  
modifications. In any other case where an objection has been duly made by an  
owner, lessee or occupier (other than a tenant for a month or less), the Minister is  
required, before confirming the order, either to cause a public local inquiry to be  
held or to afford to the objector an opportunity of appearing before and being  
heard by a person appointed by the Minister for that purpose, and may then, after  
considering the objection and the report of the person who held the inquiry or the  
person appointed as aforesaid, confirm the order with or without modifications.

## SCHEDULE

(Here insert description of land comprised in the order.)

Dated the day of 19 .

Signature of clerk  
of county council.

---

(\*) Insert date at least 21 days from the service of the notice.

## FORM No. 5

FORM OF NOTICE OF CONFIRMATION, OR MAKING BY ACQUIRING MINISTER, OF  
COMPULSORY PURCHASE ORDER

THE (\*) ACT, , AND  
THE ACQUISITION OF LAND (AUTHORISATION PROCEDURE) ACT, 1946.

Notice is hereby given that

in exercise of the powers conferred on him by the  
above-mentioned Acts on the day of ,  
19 , [confirmed] [with modifications] [made] a compulsory purchase order entitled  
the [submitted to him  
by the ] [on behalf of the  
parish council of ].

The order provides for the purchase for the purpose of  
of the land described in the schedule hereto.

---

(\*) Insert short title of Act authorising compulsory purchase.

A copy of the order as [confirmed] [made] by the Minister and of the map referred to therein have been deposited at

and may be seen there at all reasonable hours.

[The order becomes operative on the date of this advertisement, but if application is made to the High Court within a period of six weeks from that date by an aggrieved person desirous of questioning the validity of the order, the Court may, by interim order, suspend the operation of the order either generally or as respects any property of the applicant, and may, if satisfied that the order is invalid or that the interests of the applicant have been substantially prejudiced by any requirement of the Act or of any regulation made thereunder not having been complied with, quash the order either generally or in so far as it affects any property of the applicant.] (\*)

[The order, being subject to special parliamentary procedure, will become operative as provided by the Statutory Orders (Special Procedure) Act, 1945. Except in a case where the order is confirmed by an Act of Parliament under section 6 of that Act, if application is made to the High Court within a period of six weeks from the date on which the order becomes operative as aforesaid by an aggrieved person desirous of questioning the validity of the order, the Court may, by interim order, suspend the operation of the order either generally or as respects any property of the applicant, and may, if satisfied that the order is invalid or that the interests of the applicant have been substantially prejudiced by any requirement of the Act or of any regulation made thereunder not having been complied with, quash the order either generally or in so far as it affects any property of the applicant.]

#### SCHEDULE

(Here insert description of land comprised in the order.)

Dated the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

Signature of authorised officer  
of authority making the  
order.

(\*) This paragraph or the following one, whichever is appropriate, must be inserted.

#### FORM No. 6

FORM OF ADVERTISEMENT OF GRANTING OF CERTIFICATE UNDER PART III OF FIRST SCHEDULE TO THE ACQUISITION OF LAND (AUTHORISATION PROCEDURE) ACT, 1946

THE ACQUISITION OF LAND (AUTHORISATION PROCEDURE) ACT, 1946.

Whereas a compulsory purchase order entitled the \_\_\_\_\_  
has been [made] [prepared in draft] by \_\_\_\_\_  
in respect of the land described in the schedule hereto [and submitted to the \_\_\_\_\_  
for confirmation.]

[And whereas the said land includes land acquired by the \_\_\_\_\_  
for the purposes of their \_\_\_\_\_  
undertaking as respects which the Minister of \_\_\_\_\_  
is satisfied that it is used, or an interest is held therein, for the purposes of the carrying on of that undertaking:] (\*)

Notice is hereby given that the Minister of \_\_\_\_\_  
in exercise of the powers conferred on him by paragraph [10] [11] [12] of Part III of the First Schedule to the above-mentioned Act, has certified as respects the land indicated in that connection in the schedule hereto that (†)

A map showing the land proposed to be acquired, and the land to which the certificate relates [and the land proposed to be given in exchange], may be inspected at \_\_\_\_\_ at all reasonable hours.

(\*) Omit when the certificate is given under paragraph 11 or 12.

(†) Insert the terms of the certificate.



The certificate becomes operative on the date of this advertisement, but if application is made to the High Court within a period of six weeks from that date by an aggrieved person desirous of questioning the validity of the certificate, the Court may, by interim order, suspend the operation of the certificate either generally or as respects any property of the applicant, and may, if satisfied that the interests of the applicant have been substantially prejudiced by any requirement of the Act or of any regulation made thereunder not having been complied with, quash the certificate either generally or in so far as it affects any property of the applicant.

#### SCHEDULE

[Here insert description of land comprised in the order, indicating the land to which the certificate relates and any land proposed to be given in exchange.]

Dated the

day of

, 19

Signature of authorised officer  
of authority making or  
preparing the order.

[647]

\* \* \* \* \*

## LONDON

STATUTES :—

Roosevelt Memorial Act, 1946

PAGE

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## STATUTES

### ROOSEVELT MEMORIAL ACT, 1946

(9 & 10 Geo. 6, c. 83)

#### PRELIMINARY NOTE

The purpose of this short Act is to enable effect to be given to a proposal made shortly after the death of the late President Franklin Roosevelt in 1945, for the erection in this country of a statue to his memory. A statue is being executed under the auspices of the Pilgrims Society, and the cost of the execution and erection is to be met from a fund which is being raised by public subscription under the Society's auspices. The statue is to be erected in Grosvenor Square, which has numerous American associations, and the duty of erecting and maintaining it is imposed upon the Minister of Works, who is also to lay out the Square as a garden. Thereafter the Square is to be kept open as a garden for the use and enjoyment of the public in perpetuity, and is to be managed and maintained by the Minister for that purpose.

The provision for public use and enjoyment of the Square necessitates the repeal of a local Act, under which the exclusive rights of use and enjoyment thereof were conferred upon the owners and occupiers of adjacent houses, though provision is made for payment of compensation in respect of the extinguishment of these rights. No person having an estate or interest in the square is to be under any liability to an owner or occupier of any adjacent premises whose right to use and enjoy the Square is extinguished by this Act. Rights to use the subsoil of the Square for certain purposes are preserved to any person interested in the Square or the subsoil thereof provided that these rights are not exercised in a manner which will damage the statue or interfere with the maintenance of the Square as a garden or the use and enjoyment thereof by the public.

The statutory powers of the Metropolitan Water Board are unaffected by the Act, but must be exercised in relation to the Square subject to such conditions as the Minister may impose for preventing damage to the statue, and interference

with the maintenance of the Square as a garden and its use and enjoyment by the public.

The Minister is empowered to enforce the provisions of the Act and the observance of any conditions imposed thereunder by means of injunctions. [648]

### ARRANGEMENT OF SECTIONS

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*An Act to provide for the erection in Grosvenor Square, in the City of Westminster, of a statue of Franklin Delano Roosevelt, the laying out of the Square as a garden and its opening for the use and enjoyment of the public in perpetuity ; and for purposes connected with the matters aforesaid.* [649]

[6th November, 1946.]

Whereas it is intended that there shall be executed, under the auspices of the Pilgrims Society, a statue of the late President of the United States of America, Franklin Delano Roosevelt, and that the cost of the execution and erection thereof shall be defrayed out of a fund to be raised by public subscription under the auspices of that Society (hereinafter referred to as "the fund") :

And whereas it is intended that the statue to be so executed shall be erected in the garden enclosure bounded on all sides by the roadway of Grosvenor Square, in the City of Westminster (which enclosure is hereinafter referred to as "the Square") and that the Square shall be laid out as a garden :

And whereas by the local Act of the fifth and sixth years of King William the Fourth, chapter forty-three, intituled "An Act to enable the Inhabitants of Grosvenor Square in the County of Middlesex more effectually to pave, cleanse, light, water, and embellish the said Square" (hereinafter referred to as "the local Act"), exclusive rights to use and enjoy the Square are conferred on the owners and occupiers of houses and premises encompassing or abutting on the Square and of other houses within the limits of the local Act, and it is intended that those rights shall be extinguished, and that the Square shall be opened for the use and enjoyment of the public and kept open for ever for that purpose :

And whereas a plan of the Square with a book of reference to the plan containing the names of the owners or reputed owners and occupiers of the Square and of the houses and premises aforesaid has been deposited with the clerk of the London County Council :

And whereas the purposes of this Act cannot be effected without the authority of Parliament : [650]

Be it therefore enacted, etc. :—

**1. Erection of statue and laying out of garden.**—The Minister of Works (hereinafter referred to as "the Minister") shall—

(a) erect and maintain in the Square the statue to be executed under

the auspices of the Pilgrims Society of the late President of the United States of America, Franklin Delano Roosevelt ; and

(b) lay out the Square as a garden ;

and the Square shall for ever thereafter be kept open as a garden for the use and enjoyment of the public, and shall be managed and maintained by the Minister for that purpose. [651]

" *The Square.*"—Grosvenor Square in the City of Westminster (see Preamble, *ante*).

**2. Repeal of Acts.**—(1) The local Act is hereby repealed. [652]

(2) The London Squares Preservation Act, 1931, shall cease to apply to the Square. [653]

*Local Act.*—For the definition and general intention of the local Act, see Preamble, *ante*.  
*London Squares Preservation Act, 1931.*—21 & 22 Geo. 5, c. xciii. The main object of the Act is to restrict the use of certain squares to " authorised purposes ", and to prohibit the erection thereon of any buildings, etc., other than those necessary in connection with the authorised purposes.

" *The Square.*"—Grosvenor Square in the City of Westminster (see Preamble, *ante*).

**3. Compensation for extinguishment of existing rights.**—(1) The Minister shall pay to any person entitled, immediately before the commencement of this Act, to a right to use and enjoy the Square, such compensation, if any, as may be just in respect of the extinguishment by this Act of that right. [654]

(2) If any question arises whether compensation is payable under this section to any person or as to the amount of compensation so payable, it shall, in default of agreement between the Minister and that person, be referred to and determined by an official arbitrator appointed under the Acquisition of Land (Assessment of Compensation) Act, 1919, who shall have the like powers with respect to procedure, costs and the statement of special cases as he has under that Act. [655]

*Extinguishment of rights to use and enjoy the Square.*—See Preamble and s. 2, *ante*.

*Acquisition of Land (Assessment of Compensation) Act, 1919.*—2 Halsbury's Statutes 1176. As to the appointment of official arbitrators under the Act, see s. 1 thereof, *ibid*.

" *The Square.*"—Grosvenor Square in the City of Westminster (see Preamble, *ante*).

**4. Preservation of rights to use subsoil for certain purposes.**—Nothing in this Act shall be construed as preventing any person having an estate or interest in the Square or in the subsoil thereof—

- (a) from using, or permitting the use of, the subsoil for the construction and maintenance of underground works or underground buildings in a manner which will not damage the statue, interfere with the maintenance of the Square as a garden or the use and enjoyment thereof by the public, or injure any trees growing in the Square ; or
- (b) with the consent of the Minister and subject to such conditions as he may impose, from using or permitting the use of the surface, so far as it may reasonably be necessary and proper so to do, for the purpose of the construction and maintenance of underground works or underground buildings and the erection of temporary buildings, and of the construction and maintenance of entrances, exits and ventilation shafts in relation to underground works and underground buildings. [656]

" *The Square.*"—Grosvenor Square in the City of Westminster (see Preamble, *ante*).

**5. Saving for powers of Metropolitan Water Board.**—Nothing in this Act shall affect any statutory power exercisable by the Metropolitan Water Board, but any such power shall in relation to the Square be exercisable subject to such conditions as the Minister may impose for the purpose of preventing damage to the statue, interference with the maintenance of the

Square as a garden and the use and enjoyment thereof by the public (other than temporary interference) and injury to any trees growing in the Square. [657]

"*The Square.*"—Grosvenor Square in the City of Westminster (see Preamble, *ante*).

**6. Power of Minister to enforce Act by injunction.**—Notwithstanding anything contained in this or any other Act (and without prejudice to any power of the Minister or other remedy) injunctions for the enforcement of the provisions of this Act and the observance of any condition imposed thereunder may be granted at the suit or upon the application of the Minister, and in any proceedings brought by the Minister for that purpose the powers of the court shall include a power on the application of the Minister to order the restoration of the Square to as nearly as may be the state in which it was before the matter complained of by the Minister arose, including the removal of any buildings, works, structures or erections which the court determine to have been erected, placed or maintained in contravention of this Act or of any condition imposed thereunder. [658]

"*The Square.*"—Grosvenor Square in the City of Westminster (see Preamble, *ante*).

**7. Persons interested in the Square not to be under liability to owners or occupiers of adjacent premises.**—It is hereby declared that no person having an estate or interest in the Square shall be under any liability to any person entitled, immediately before the commencement of this Act, to a right to use and enjoy the Square, in respect of the extinguishment by this Act of that right or of anything done in giving effect to this Act, and no action or other proceeding whatsoever in respect of any such matter shall be capable of being maintained against a person having an estate or interest in the Square by or on behalf of a person entitled as aforesaid. [659]

"*The Square.*"—Grosvenor Square in the City of Westminster (see Preamble, *ante*).  
*Extinguishment of rights to use and enjoy the Square*, see Preamble and s. 2, *ante*.

**8. Expenses.**—The expenses incurred under this Act by the Minister shall, save in so far as they are defrayed out of the fund, be defrayed out of moneys provided by Parliament. [660]

*Definition.*—For definition of "the fund," see Preamble, *ante*.

**9. Short title.**—This Act may be cited as the Roosevelt Memorial Act, 1946. [661]

## MIDWIVES

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ORDERS, CIRCULARS AND MEMORANDA :—

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## ORDERS, CIRCULARS AND MEMORANDA

Circular 77/46

To :—

All Local Authorities.  
 All Voluntary Hospitals.  
 Joint Hospital Boards.  
 County and District Nursing  
 Associations (Superintendents).

MINISTRY OF HEALTH,  
 WHITEHALL,  
 LONDON, S.W.1.  
 17th April, 1946.

SIR/MADAM,

### Financial Assistance to Midwives undergoing Refresher Courses

1. I am directed by the Minister of Health to state that he has had under

consideration the serious shortage of practising midwives, and the desirability of encouraging the largest possible number of midwives, who have not recently practised as such, to undergo refresher training and resume midwifery practice.

2. He has accordingly made arrangements whereby a State Certified Midwife who, whether because of service in the Armed Forces or for any other reason, has not recently practised midwifery but wishes now to do so, may apply for an Exchequer grant to assist her to undergo a refresher midwifery course. The maximum number of persons to be assisted under this scheme is at present one hundred ; but the Minister will review the arrangements in the light of experience.

3. The amount of the grant will depend on the length of the course ; it will be at the rate of £15 a month, and the maximum grant will be £45. Payments will be made direct to the midwife at the end of each month, and will be subject to confirmation by the training institution of satisfactory attendance and progress. Where financial assistance is being received from some other source, the Exchequer grant will be reduced by the amount of that assistance.

4. It will be a condition of the grant that the applicant must sign an undertaking that she will, after finishing the course, practise whole-time midwifery for at least one year, otherwise than in private domiciliary practice, or in private nursing homes.

5. Midwives who wish to apply for a grant should write in the first instance to the General Secretary, the College of Midwives, 57, Lower Belgrave Street, London, S.W.1. Applicants will be allowed to state a preference for the part of the country in which they wish to take their course ; but the availability of suitable vacancies and facilities must finally determine to what institutions they are allocated for training.

6. The Minister would be glad if the authority would bring this scheme to the notice of all persons in their employment or under their jurisdiction who are State Certified Midwives, but are not practising as such.

### **Superannuation Position of Pupil Midwives**

7. The Minister takes this opportunity to state that he has given consideration to the superannuation position of pupil midwives who are training in local authority establishments. It has been brought to his notice that in some areas pupil midwives are included in the superannuation schemes of the local authorities running the training institutions ; in other areas they are not regarded as eligible. This variation in practice may have arisen to some extent from the fact that in particular cases, on appeals, the Minister has found sometimes for and sometimes against the eligibility of pupil midwives. While the decision in any specific instance must continue to rest on the facts of the case and particularly on the expressed relationship between the local authority and the pupil midwife, the Minister is advised that, in general, where the pupil midwife assists in the work of the institution, or otherwise in the service of the local authority, in the course of her training, she should be regarded as an employee for the purpose of the Local Government Superannuation Act, 1937. The Minister understands that this is the usual practice as regards student nurses ; and he hopes that, unless there are exceptional circumstances, expressed in the contract or otherwise, local authorities will adopt this practice for pupil midwives also, in order to secure uniformity of action.

8. In the case of local authorities, a copy of this Circular is being sent to

the Medical Officer of Health, and an additional copy is enclosed for the Chief Financial Officer of the Council. [662]

I am, Sir/Madam, etc.

\* \* \* \* \*

The Clerk of the Council,  
The Town Clerk,  
The Clerk of the Joint Board,  
The Secretary, House Governor or Superintendent.

## NATIONAL HEALTH AND UNEMPLOYMENT INSURANCE

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### STATUTES

#### NATIONAL HEALTH SERVICE ACT, 1946

(9 & 10 Geo. 6, c. 81)

#### PRELIMINARY NOTE

This Act is designed to provide for the establishment of a comprehensive health service for England and Wales. A comprehensive scheme under which all forms of medical service would be made generally available to all persons was adumbrated in the report made by the Consultative Council on Medicine and Allied Services to the Minister of Health in 1920, and many commissions and committees subsequently considered the matter and made a variety of proposals. In 1944 the Government of the day put forward their proposals in a White Paper (Cmd. 6202), which were, with some considerable modifications, adopted by the present Government. A summary of the present Government's proposals was issued as Command Paper 6761 and forms the basis of the present Act. The scheme of national insurance embodied in the National Insurance Acts was formulated on the assumption that a comprehensive health service would be established, and this Act must be regarded as complementary to the provisions of those Acts.

The provisions of the Act relate directly only to the general structure of the service to be established; the details remain to be provided by the Minister of Health under powers enabling or directing him to make orders or regulations.

The main provisions of the Act are to be brought into operation on a day to be appointed by Order in Council, and although no general Order to that effect has yet been made, the Act is expected to be brought fully into operation by July 5, 1948 (see 438 H. of C. Official Report 705).

In broad outline, the comprehensive health service to be provided under the Act will consist of :—

- (a) the hospital and specialist services provided by the Minister, which are dealt with in Part II of the Act;
- (b) the health services provided by the Local Health Authority, which are dealt with in Part III of the Act; and
- (c) the general medical and dental services, pharmaceutical services and supplementary ophthalmic services provided by medical and dental practitioners, etc., which are dealt with in Part IV of the Act.

Part I of the Act deals with the central administration of the service. The Act imposes upon the Minister of Health the duty of promoting the establishment in



England and Wales of a comprehensive health service designed to secure improvement in the physical and mental health of the people and the prevention, diagnosis and treatment of illness, and for that purpose to provide or secure the effective provision of services in accordance with the provisions of the Act (s. 1 (1)). The services so provided are to be free of charge, except where the Act expressly authorises the making of charges (s. 1 (2)). To advise the Minister on general matters relating to such services or on any services provided by local health authorities in their capacity as such authorities, a Central Health Services Council is to be constituted (s. 2 (1)). Subject to variation by the Minister, the Council will, in accordance with Schedule I, consist of 6 members appointed *ex officio*, as holders of certain specified high medical offices, together with 35 members appointed by the Minister from among persons representative of the medical and allied professions. The Minister may constitute standing committees to advise him and the Council on particular services, and to consist partly of members of the Council experienced in those services and partly of persons appointed after consultation with representative organisations (s. 2 (3)). The Council will make an annual report to the Minister, which, unless he is satisfied that to do so would be contrary to the public interest, he is to lay before Parliament, together with such comments, if any, as he thinks fit (s. 2 (5)).

Part II of the Act deals with the hospital and specialist services which, as from the appointed day, the Act makes it the duty of the Minister to provide, to such extent as he considers necessary to meet all reasonable requirements. They consist of:—

- (a) hospital accommodation;
- (b) medical, nursing and other services required at or for the purposes of hospitals;
- (c) the services of specialists, whether at a hospital, a health centre provided under Part III of the Act or a clinic or, if necessary on medical grounds, at the home of the patient (s. 3 (1)).

Charges, when regulations so provide, may be made for appliances supplied as part of such services which are more expensive than the prescribed type or the replacement or repair of which is necessitated by lack of care on the part of the person supplied (s. 3 (2)).

Accommodation in single rooms or small wards, not for the time being needed by any patient on medical grounds, may be made available to persons undertaking to pay part of the cost thereof (s. 4), and special accommodation, for persons willing to pay the full cost, subject to its being available for any patient needing it urgently, may be set aside, where any doctor on the hospital staff may treat his private patients (s. 5).

Subject to certain exceptions, on the appointed day, all voluntary hospitals and all hospitals belonging to a local authority together with all property, rights and liabilities relating solely to the purposes of those hospitals vest in the Minister (s. 6 (1), (2)). All property so vesting vests free of any trust existing immediately before the appointed day and may be used by the Minister for the purpose of any of his functions under the Act, but he is so far as practicable to secure that the objects for which any such property was used immediately before the appointed day are not prejudiced (s. 6 (4)). The exceptions to this provision are (a) endowments, as defined in s. 7 (10), of voluntary hospitals; (b) rights and liabilities under contracts of personal service or for the payment of superannuation benefits except those payable to employees of voluntary hospitals who have ceased to work before the appointed day (s. 6 (6)); (c) any hospital not appearing to the Minister to be required for the purpose of providing hospital and specialist services which he excepts in accordance with the provisions of s. 6 (3) (it being, however, provided that where objection is made on behalf of that hospital within a specified time, it shall not be so excepted); and (d) property and liabilities of a medical or dental school, or post-graduate institute recognised by the Minister, which is associated with any transferred hospital (s. 8). Regulations may provide for apportioning interests and liabilities which relate partly to hospital purposes and partly to other purposes, between the Minister and other persons concerned, and for the determination of questions by arbitration in default of agreement (s. 6 (5)).

All endowments of a voluntary hospital which is designated by the Minister as a teaching hospital or which is one of a group so designated, will, on the appointed day, vest in the Board of Governors to be constituted under the Act for that hospital



(s. 7 (1)), while the endowments of any other transferred voluntary hospital will on that day vest in the Minister (s. 7 (4)). An exception, however, is made in the case of endowments given between November 6, 1946, and the appointed day upon trusts to be administered separately from the general funds of the hospital or for some specified object distinct from the general purposes of the hospital and involving capital expenditure; such endowments are to vest in the Hospital Management Committee (s. 7 (4), proviso). All endowments vest in the Minister, the Board or the Committee free of any trust existing immediately before the appointed day and, in the case of endowments vesting in the Minister, are to be transferred to the Hospital Endowments Fund to be established by him, and in the case of endowments vesting in the Board or Committee are to be held by them upon trust for such purposes relating to hospital services or to their functions under Part II of the Act with respect to research as they think fit (s. 7 (2), (4)). Regulations are to provide (a) for the control and management of the Hospital Endowments Fund; (b) for enabling the Minister to apply, to such extent as may be prescribed, the assets of the Fund for discharging liabilities of a voluntary hospital transferred to him; (c) subject to the payment of such liabilities, for apportioning the capital of the Fund among the several Regional Hospital Boards and Hospital Management Committees in such shares as the Minister may determine and for distributing the income proportionately; and (d) for enabling the Minister to transfer a capital share for purposes approved by him (s. 7 (5)). Subject to such general conditions as may be prescribed, any distributed income may be used for such purposes relating to hospital services or their functions under Part II of the Act as the Board or Committee think fit (s. 7 (6)). The Act, however, declares that the Board of Governors, Hospital Management Committee or Minister, as the case may be, are to secure, as far as is reasonably practicable, that the objects of any transferred endowment are not prejudiced by such transfer (s. 7 (7)). The provisions of the Act relating to endowments apply also, *mutatis mutandis*, to property held for the purposes of a hospital of a local authority which would, had that hospital been a voluntary hospital, have been an endowment within the meaning of s. 7 (10). It should be noted that for the purpose of the foregoing provisions relating to the transfer of hospitals, the word "hospital" has a wider connotation than in other parts of the Act (s. 9 (1)).

Regulations may make such supplementary and consequential provision relating to the transfer of property and liabilities as appears to the Minister to be necessary, and, in particular, may provide for arbitration in default of agreement on questions arising as to whether any property or liability will be, or has been, transferred or as to the person to whom it will be, or has been, transferred (s. 9 (8)).

The Minister is by order to constitute, in accordance with Schedule III, Part I, Regional Hospital Boards for such areas as he may determine who will be responsible for the administration of the hospital and specialist services in those areas. Each area is, so far as practicable, to be associated with a university having a school of medicine (s. 11 (1)). Under this provision the Minister has made the National Health Service (Determination of Regional Hospital Areas) Order, 1946 (S. R. & O., 1946, No. 2158), dividing England and Wales into fourteen regional hospital areas, but no Boards have been constituted for any of these areas at the time of going to press. Each Board is to consist of a chairman and members appointed by the Minister after consultation with the university, local medical organisations or organisations of the profession generally, local health authorities and such other organisations as appear to the Minister to be concerned, and in the case of the original members of the Board, after consultation with organisations representing the local voluntary hospitals, and is to include two persons experienced in mental health services (Schedule III, Part I). The Boards are, within a specified period, to submit and, on receiving the Minister's approval thereof, give effect to, schemes for the appointment of Hospital Management Committees to manage and control individual hospitals or groups of hospitals, other than teaching hospitals (s. 11 (3), (4)). Each Committee is to be constituted in accordance with Schedule III, Part II, and is to include members appointed by the Board after consultation with the local health authorities and Executive Councils of the area, the senior medical and dental staff of the hospital or hospitals and such other organisations as appear to the Board to be concerned, and in the case of the original members of a Committee appointed before the appointed day for a voluntary hospital or a group comprising a voluntary hospital, after consultation with the governing body of that hospital (s. 11 (6), Schedule III,

Part II). The Minister may by order designate as a teaching hospital any hospital or group of hospitals which appear to him to provide university facilities for undergraduate or post-graduate clinical teaching and is to constitute, in accordance with Sched. III, Part III, a Board of Governors to administer any hospital or group so designated (s. 11 (8)). Regulations may provide for supplementary or incidental matters arising as the result of a variation of Regional Hospital Areas or the making of a new scheme by a Regional Hospital Board and in other cases (s. 11 (8)).

All officers employed for the purposes of a hospital will be appointed by the Regional Hospital Board or the Board of Governors, as the case may be, and their remuneration and conditions of service will, subject to regulations, be determined by those Boards (ss. 12 (1), (3), 14 (1)). Provision may, however, be made by regulations with respect to the appointment of specified classes of medical and dental officers of hospitals, and the regulations may, in particular, provide for the advertising of vacancies and for the constitution, on the occasion of each vacancy, of an advisory appointments committee, which will select persons considered by them to be suitable for appointment and from whom a Regional Hospital Board or Board of Governors may make the appointment (s. 14 (2)).

The Act empowers the Minister to provide certain ancillary services in addition to the hospital and specialist services to be provided by him. He may conduct, or assist by grants or otherwise in conducting, research (s. 16 (1)). The Board of Governors of a teaching hospital, Regional Hospital Boards and Hospital Management Committees are likewise empowered to conduct research (s. 16 (2)). The Minister may also provide a bacteriological service (s. 17) and make available supplies of blood for blood transfusion purposes (s. 18).

Part III of the Act deals with the health services to be provided by local health authorities. These authorities, for the purposes of Part III, are county councils and county borough councils, but joint boards may be established by order of the Minister for the areas of two or more authorities to perform such of their functions as may be specified in the order (s. 19 (2)). The provisions of Schedule IV, Part I, are to have effect with respect to such joint boards and to orders constituting them, and the provisions of Schedule IV, Part II, are to have effect with respect to health committees of local health authorities (s. 19 (3)). Every local health authority are, within such period as may be specified, to submit proposals for carrying out their duties under Part III of the Act, and are to serve copies thereof on every voluntary organisation providing services of the kind dealt with in the proposals and on the Executive Council, Regional Hospital Board, Board of Governors of a teaching hospital and every local authority in the authority's area, who may, within two months, recommend modifications of such proposals (s. 20 (1), (2)). On approval by the Minister of the proposals, with or without modifications, the local health authority are to carry out their duties in accordance therewith (s. 20 (3)). Provision is made for the submission of new proposals modifying existing proposals, and for proposals to be made by the Minister when the authority fail to submit them (s. 20 (4), (5)). The duties placed upon the local health authorities by Part III of the Act relate to:—

- (a) the provision, equipment and maintenance of health centres. Health centres are not defined by the Act, their precise nature and function being left for determination in the light of experience, since, as stated by the Minister of Health during the course of the debate on the Second Reading of the Bill, they will vary, some being large centres at which a considerable variety of services will be available and some being smaller ones, nearer people's homes, where practitioners can see their patients and whence they can send them for more extensive examination to a large centre (422 H. of C. Official Report 58). The Act provides that health centres are to be available for the provision of general medical and dental services and pharmaceutical services and other services under the Act including those to be provided by the local health authority, and also for the exercise of certain powers under other Acts (s. 21 (1)). Any general medical or dental services so provided will be provided by practitioners working under arrangements made by Executive Councils under Part IV of the Act, since the Act forbids local authorities to employ practitioners to provide such services (s. 21 (2)).

- (b) the care, including, in particular, dental care, of expectant and nursing mothers and young children (s. 22);
- (c) midwifery service (s. 23);
- (d) health visiting (s. 24);
- (e) home nursing (s. 25);
- (f) vaccination and immunisation (s. 26);
- (g) ambulance services (s. 27);
- (h) to such extent as the Minister may direct, the prevention of illness and the care or after-care of persons suffering from illness or mental defectiveness (s. 28).

In addition, local health authorities are empowered to arrange for the provision of domestic help for households in certain cases (s. 29).

In connection with certain of the above services, a local health authority may discharge its duty through the agency of a voluntary organisation as an alternative to itself providing such service. The Act authorises the making of reasonable charges with the Minister's approval in certain cases.

Part IV of the Act deals with general medical and dental services, pharmaceutical services and supplementary ophthalmic services. An Executive Council is to be constituted in accordance with Schedule V for the area of every local health authority, or, where the Minister considers it expedient, for two or more areas jointly (s. 31 (1), (2)). The Minister may, after consultation with any Executive Council, by order vary its constitution, where, owing to special circumstances, it appears desirable to do so (s. 31 (3)). He may also, where he considers it expedient, by order constitute a joint committee for any two or more areas to exercise such of an Executive Council's functions as may be specified in the order (s. 31 (4)). It is provided that the Minister may recognise any committee representative of practitioners in the area of an Executive Council, to be called the Local Medical Committee, the Local Pharmaceutical Committee or the Local Dental Committee, as the case may be, and that an Executive Council in exercising its functions under this Part of the Act is to consult, on such occasions and to such extent as may be prescribed, with any such committees, who are, in addition, to exercise such other functions as may be prescribed (s. 32). A duty is imposed on every Executive Council, in accordance with regulations, to make, as respects their area, arrangements with medical practitioners for the provision by them as from the appointed day, whether at a health centre or otherwise, of personal medical services for all persons in the area who wish to take advantage of the arrangements, such services being referred to in the Act as "general medical services" (s. 33 (1)). Any person is to have a right, which will be conferred by regulation, of choosing the medical practitioner by whom he is to be attended, subject to such practitioner's consent and to any prescribed limit on the number of patients which a practitioner may accept (s. 33 (2) (b)). Lists of practitioners undertaking to provide general medical services are to be prepared and published (s. 33 (2) (a)), and, subject to disqualification, every practitioner in practice (otherwise than as a paid assistant) will be entitled, on applying before the appointed day in the prescribed manner, to be included in the list for his area (s. 34 (1)). Applications made after the appointed day or by practitioners not so entitled will be referred by the Council to the Medical Practices Committee. This Committee is to be constituted by the Minister in accordance with Schedule VI to secure an adequate distribution of practitioners providing general services throughout the various areas (s. 34 (2)). It may refuse any application made to it on the ground that the number of such practitioners in the area is already adequate, and will, when the number of applicants exceeds the number of additional practitioners required, after consulting the Executive Council who will, in turn, consult any Local Medical Committee, have the duty of selecting the successful applicants (s. 34 (3)). The Medical Practices Committee may not refuse an application on any other ground, but may grant an application subject to conditions excluding the applicant from providing general medical services in specified parts of the area (s. 34 (4)). An appeal will lie to the Minister from any such refusal or conditional grant (s. 34 (6)). In making a selection from a number of applicants, the Committee, and on appeal the Minister, are to have regard to an applicant's desire to practice with a practitioner already providing general medical services in the area, particularly where he is related to such practitioner (s. 34 (9)).

The Act makes unlawful the sale of the goodwill of a medical practice or of any

part thereof where the practitioner on the appointed day or at any time thereafter has had his name on any list of practitioners providing general medical services, unless his name has been removed and he has since practised in some other area (s. 35 (1)). The Act contains elaborate provisions setting out what shall be deemed to be a sale for the purpose of this provision, and imposes penalties for its infringement (s. 35). It is, however, provided that a practitioner or his personal representative may apply to the Medical Practices Committee for their opinion in regard to a proposed transaction, and that the Committee shall, where they are satisfied that it does not involve any unlawful sale, issue a certificate to that effect which will be a defence to any charge in respect of that transaction (s. 35 (9), (10)).

Compensation is to be paid to any practitioner whose name is on the appointed day on a list of practitioners providing general medical services in respect of any loss suffered by him as a result of his inability to sell the goodwill of his practice by virtue of the last mentioned provision (s. 36 (1)). Compensation will also be paid, on application being made to the Medical Practices Committee, to any practitioner who retires, or to the personal representative of any practitioner who dies, between November 6, 1946, and the appointed day, where the goodwill of his practice has not been sold before that day; and in such a case the prohibition on the sale of the goodwill will also apply (s. 37). The aggregate amount of the compensation for England, Scotland and Wales will be 66 million pounds, less a 1/17,900th part thereof in respect of each practitioner by which the number of practitioners entering the service falls short of 17,700 (s. 36 (2)). The aggregate amount for England and Wales, to which countries this Act is restricted, will be the appropriate proportion of that sum having regard to the aggregate losses in respect of which compensation is payable under this Act, on the one hand, and under the corresponding provisions of any Act in force for Scotland, on the other hand (s. 36 (2), (4)). Compensation will not, except in prescribed cases, be paid before the death or the retirement of the practitioner, but interest at the rate of 2½ per cent. per annum will be payable from the appointed day (s. 36 (3)).

In addition to their duties in connection with the provision of general medical services, Part IV of the Act imposes on Executive Councils corresponding duties to arrange for the provision of pharmaceutical, general dental, and supplementary ophthalmic services (ss. 38 (1), 40 (1), 41 (1)). Pharmaceutical services consist in the provision of proper and sufficient drugs and medicines and prescribed appliances to all persons receiving general medical services, and of prescribed drugs and medicines to all persons receiving general dental services (s. 38 (1)). Except as may be provided by regulations, no arrangements are to be made by Executive Councils with medical or dental practitioners for the provision by them of pharmaceutical services to their own patients (s. 39 (1)), nor are Executive Councils to make arrangements with any persons except registered pharmacists and authorised sellers of poisons for the dispensing of medicines (s. 39 (2)). Regulations will, however, be made permitting the making of such arrangements in rural areas (*per* the Minister of Health in Committee; H. of C. Official Report, S.C.C., June 25, 1946, col. 738). General dental services consist in the provision by dental practitioners of dental treatment and appliances and owing to a shortage of dental practitioners are, unlike general medical services, to be available only to persons for whom a dental practitioner undertakes to provide them (s. 40 (1)). A Dental Estimates Board is to be set up to carry out prescribed duties with respect to the approval of estimates of dental treatment and appliances (s. 40 (2) (d)). Supplementary ophthalmic services are supplementary to the ophthalmic services to be provided by the Minister as part of the hospital and specialist services and will not be provided for any area for which the latter services are adequate (s. 41 (1), (4)). They consist in the testing of sight by ophthalmic opticians and suitably qualified practitioners and the supply of appliances by ophthalmic opticians and dispensing opticians (s. 41 (1)). The functions of Executive Councils in connection with these services will, to such extent as may be prescribed, be exercised by Ophthalmic Services Committees which are to be constituted for each area (s. 41 (2)).

This part of the Act contains a number of supplementary provisions. Provision is made for the constitution of a tribunal called "the Tribunal" to hear and determine cases where representations are made that the continued inclusion of any person in a list of persons providing services under this Part of the Act is prejudicial to the efficiency of the services in question (s. 42). From its decision an appeal lies to the Minister (s. 42 (4)). Provision is also made enabling the Minister to make

other arrangements in cases where services are inadequate (s. 43). Other provisions deal with the making of charges (s. 44), the arrangements to be made for the use of health centres by practitioners (s. 46), the decision of disputes (s. 47) and the provision of refresher courses for persons providing services under this Part of the Act (s. 48).

Part V of the Act contains special provisions as to the mental health services. These provisions will last for a temporary period only, according to the Lord Chancellor on the Second Reading of the Bill, it being the Government's intention, when time permits, to make a complete review of legislation dealing with mental health (143 H. of L. Official Report 3). Certain administrative functions of the Board of Control are transferred to the Minister (s. 49 (1), Sched. VIII), and the provisions of the Lunacy and Mental Treatment Acts, 1890 to 1930, and the Mental Deficiency Acts, 1913 to 1938 (as to the Acts comprised in which, see notes to s. 49), are very widely amended and repealed to bring the mental health services within the comprehensive health service to be provided under the Act (s. 50 (1), Sched. IX).

Part VI of the Act contains the financial and administrative provisions. Grants are to be made to local health authorities of between three-eighths and three-quarters of the estimated expenditure incurred by them in carrying out their functions as such authorities under this or any other enactment (s. 53 (1)). Payments are to be made to defray the expenditure of Executive Councils, Regional Hospital Boards and other bodies constituted under the Act (s. 54). Such payments made to Regional Hospital Boards will include payments in respect of Hospital Management Committees appointed by them (s. 54 (1)). Power is conferred on the Minister to replace the members of any body (other than a local health authority) which he considers has failed to carry out its functions or to comply with regulations or directions relating thereto (s. 57 (1), (2)); in the case of a defaulting local health authority he may transfer such of its functions as he thinks fit to himself (s. 57 (3)). Provision is made for the compulsory acquisition by the Minister of land (s. 58), and, where he acquires a hospital, of movable property used in connection with it (s. 10). Power to accept gifts of property is conferred on Regional Hospital Boards, Boards of Governors and Hospital Management Committees (s. 59). This Part of the Act also contains provisions relating to the preservation of the character of denominational hospitals (s. 61), the provision of special schools (s. 62), the transfer, compensation and superannuation of officers (ss. 67, 68), the holding of inquiries (s. 70), the recovery of charges (s. 71) and a number of other miscellaneous matters.

The total cost of the health service to be provided under the Act is estimated at approximately £150 millions a year; of which sum about £30 millions will come from the National Insurance Fund (see s. 37 of the National Insurance Act, 1946), about £10 millions will be provided by the local health authorities and the balance of about £110 millions will be provided by the Exchequer (*per* the Lord Chancellor in Committee: 143 H. of L. Official Report 375). [663]

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*An Act to provide for the establishment of a comprehensive health service for England and Wales, and for purposes connected therewith.* [664]

[6th November, 1946.]

## PART I

### CENTRAL ADMINISTRATION

**1. Duty of Minister.**—(1) It shall be the duty of the Minister of Health (hereafter in this Act referred to as “the Minister”) to promote the establishment in England and Wales of a comprehensive health service designed to secure improvement in the physical and mental health of the people of England and Wales and the prevention, diagnosis and treatment of illness, and for that purpose to provide or secure the effective provision of services in accordance with the following provisions of this Act. [665]

(2) The services so provided shall be free of charge, except where any

provision of this Act expressly provides for the making and recovery of charges. [666]

*General effect of section.*—See Preliminary Note, *ante*.

*Provisions for the making of charges.*—See ss. 3 (2), 4, 5, 17, 18, 22 (2), 28 (2), 29 (2), 44, *post*.

*Recovery of charges.*—See s. 71, *post*.

*Definition.*—For definition of “illness,” see s. 79 (1), *post*.

## 2. Central Health Services Council and Standing Advisory Committees.—

(1) There shall be constituted in accordance with the First Schedule to this Act a council, to be called the Central Health Services Council and hereafter in this Act referred to as “the Central Council”, and it shall be the duty of the Central Council to advise the Minister upon such general matters relating to the services provided under this Act, or any services provided by local health authorities in their capacity as such authorities, as the Council think fit and upon any questions referred to them by him relating to those services. [667]

(2) The Minister may, after consultation with the Central Council, by order vary the constitution of that Council. [668]

(3) The Minister may, after consultation with the Central Council, by order constitute standing advisory committees for the purpose of advising him and the Central Council on such of the services aforesaid as may be specified in the order, and any committee constituted under this subsection shall consist partly of members of the Central Council appointed by the Minister after consultation with that Council as being persons of experience in those services and partly of persons, whether members of the Central Council or not, appointed by the Minister after consultation with such representative organisations as the Minister may recognise for the purpose. [669]

(4) It shall be the duty of a standing advisory committee constituted under this section to advise the Minister and the Central Council upon such matters relating to the services with which the committee are concerned as they think fit and upon any questions referred to them by the Minister or Central Council relating to those services, and, if the committee advise the Minister upon any matter, they shall inform the Central Council, who may express their views thereon to the Minister. [670]

(5) The Central Council shall make an annual report to the Minister on their proceedings and on the proceedings of any standing advisory committee constituted under this section, and the Minister shall lay that report before Parliament with such comments (if any) as he thinks fit:

Provided that, if the Minister, after consultation with the Central Council, is satisfied that it would be contrary to the public interest to lay any such report, or a part of any such report, before Parliament, he may refrain from laying that report or part. [671]

(6) The supplementary provisions contained in the First Schedule to this Act shall have effect in relation to the Central Council and any standing advisory committee constituted under this section. [672]

*The Minister.*—The Minister of Health (s. 1 (1)).

*Effect of section.*—This section provides for the constitution in accordance with Sched. I, *post*, of the Central Health Services Council with a duty to advise the Minister on general matters relating to the services provided under this Act and by local health authorities under other Acts. The section also enables the Minister to appoint standing advisory committees to advise him and the Council.

*Order varying the constitution of the Council.*—Power to vary the constitution of the Council is given by sub-s. (2), as practical difficulties have in the past arisen where a variation in the constitution of a body cannot be effected except by Act of Parliament (*per* the Minister of Health on the Committee Stage of the Bill, H. of C. Official Report, S.C.C., May 14, 1946, col. 37). Any order made by the Minister under sub-s. (2) must be laid before Parliament and will be subject to negative resolution by either House (s. 75 (2), *post*).

## PART II

## HOSPITAL AND SPECIALIST SERVICES

*Provision of Services by Minister*

**3. Provision of hospital and specialist services.**—(1) As from the appointed day, it shall be the duty of the Minister to provide throughout England and Wales, to such extent as he considers necessary to meet all reasonable requirements, accommodation and services of the following descriptions, that is to say:—

- (a) hospital accommodation;
- (b) medical, nursing and other services required at or for the purposes of hospitals;
- (c) the services of specialists, whether at a hospital, a health centre provided under Part III of this Act or a clinic or, if necessary on medical grounds, at the home of the patient;

and any accommodation and services provided under this section are in this Act referred to as “hospital and specialist services”. [673]

(2) Regulations may provide for the making and recovery by the Minister of such charges as may be prescribed—

- (a) in respect of the supply, as part of the hospital and specialist services, of any appliance which is, at the request of the person supplied, of a more expensive type than the prescribed type, or in respect of the replacement or repair of any such appliance; or
- (b) in respect of the replacement or repair of any appliance supplied as part of the services aforesaid, if it is determined in the prescribed manner that the replacement or repair is necessitated by lack of care on the part of the person supplied. [674]

(3) Regulations may provide for the payment by the Minister, in such cases as may be prescribed, of travelling expenses (including the travelling expenses of a companion) incurred or to be incurred by persons for the purpose of availing themselves of hospital and specialist services. [675]

*The Minister.*—The Minister of Health (s. 1 (1)).

*Appointed day.*—See s. 79 (1), *post*. Though no day has been appointed at the time of going to press, the Prime Minister said in the House of Commons on June 9, 1947, that it was hoped to bring the Act, with the National Insurance schemes, into full operation by July 5, 1948 (see 438 H. of C. Official Report 705).

*Definitions.*—For definitions of “hospital,” “medical,” “prescribed” and “regulations,” see s. 79 (1), *post*. As to regulations, see s. 75, *post*.

*Recovery of charges by the Minister.*—See s. 71, *post*. Normally no charges may be made for services provided under the Act (s. 1 (2)).

**4. Accommodation available on part payment.**—Where there is provided in any hospital, as part of the hospital and specialist services, accommodation in single rooms or small wards, the Minister may make any such accommodation, which is not for the time being needed by any patient on medical grounds, available for patients who undertake, or in respect of whom an undertaking is given, to pay for the accommodation such charges, designed to cover part of the cost thereof, as may be determined in the prescribed manner, and the Minister may recover those charges. [676]

*General effect of section.*—See Preliminary Note, *ante*. This section must be distinguished from s. 5 (1), *post*. This section relates to single rooms and small wards, and authorises the Minister to make charges covering part of the cost of accommodation therein so long as they are not needed on medical grounds by any patient, including the patient making the payment. S. 5, *post*, relates to special accommodation, such as pay blocks, which may be set aside for patients paying the full cost thereof, subject to its being made available for any patient urgently needing it on medical grounds and for whom there is no suitable alternative accommodation available.

*The Minister.*—The Minister of Health (s. 1 (1)).

*Definitions.*—For definitions of “hospital,” “medical,” “patient” and “prescribed,” see s. 79 (1), *post*.

*Recovery of charges by the Minister.*—See s. 71, *post*. Normally no charges may be made for services provided under the Act (s. 1 (2)).

*Hospital and specialist services.*—As to these services, see s. 3, *ante*.

**5. Accommodation for private patients.**—(1) If the Minister, having regard to his duty to provide hospital and specialist services, is satisfied that it is reasonable so to do, he may set aside in any hospital providing such services special accommodation for patients who undertake, or in respect of whom an undertaking is given, to pay such charges as may be determined in the prescribed manner, being charges designed to cover the whole cost of the accommodation and services provided for the patient at the hospital, including an appropriate amount in respect of overhead expenses, and the Minister may recover those charges :

Provided that nothing in this section shall prevent accommodation so set aside from being made available for any patient who urgently needs that accommodation on medical grounds and for whom suitable accommodation is not otherwise available. [677]

(2) The Minister may allow any medical practitioner serving, whether in an honorary or paid capacity, on the staff of a hospital providing hospital and specialist services to make arrangements for the treatment of his private patients either at that hospital or at any other such hospital, and may make available for that purpose the special accommodation aforesaid, and in that case the charges prescribed under the last foregoing subsection shall not include the cost of any services rendered by the medical practitioner, and regulations may prescribe the maximum charges to be made and recovered by any such medical practitioner in respect of the treatment of his private patients under this subsection. [678]

*General effect of section.*—See Preliminary Note, *ante*. See also note to s. 4, *ante*.

*The Minister.*—The Minister of Health (s. 1 (1)).

*Definitions.*—For definitions of “hospital,” “medical,” “medical practitioner,” “patient,” “prescribed” and “regulations,” see s. 79 (1), *post*. As to regulations, see s. 75, *post*.

*Recovery of charges by the Minister.*—See s. 71, *post*. Normally no charges may be made for services provided under the Act (s. 1 (2)).

*Hospital and specialist services.*—As to these services, see s. 3, *ante*.

### *Transfer of hospitals to the Minister*

**6. Transfer of hospitals to the Minister.**—(1) Subject to the provisions of this Act, there shall, on the appointed day, be transferred to and vest in the Minister by virtue of this Act all interests in or attaching to premises forming part of a voluntary hospital or used for the purposes of a voluntary hospital, and in equipment, furniture or other movable property used in or in connection with such premises, being interests held immediately before the appointed day by the governing body of the hospital or by trustees solely for the purposes of that hospital, and all rights and liabilities to which any such governing body or trustees were entitled or subject immediately before the appointed day, being rights and liabilities acquired or incurred solely for the purposes of managing any such premises or property as aforesaid or otherwise carrying on the business of the hospital or any part thereof, but not including any endowment within the meaning of the next following section or any rights or liabilities transferred under that section. [679]

(2) Subject to the provisions of this Act, there shall also, on the appointed day, be transferred to and vest in the Minister by virtue of this Act all hospitals vested in a local authority immediately before the appointed day, and all property and liabilities held by a local authority, or to which a local authority were subject, immediately before the appointed day, being property and liabilities held or incurred solely for the purposes of those hospitals or any

of them or for the purpose of securing accommodation for persons in the area at any hospital not vested in the authority. [680]

(3) If it appears to the Minister that, in the case of any hospital to which the foregoing provisions of this section apply, the transfer of the hospital or of the interests referred to in subsection (1) of this section will not be required for the purpose of providing hospital and specialist services, he may, at any time before the appointed day, serve a notice to that effect on the governing body of the hospital or, as the case may be, on the local authority in whom the hospital is vested, and thereupon the foregoing provisions of this section shall cease to apply to that hospital :

Provided that if the governing body or local authority, within such period (not being less than twenty-eight days from the service of the notice) as may be specified in the notice, serve a notice on the Minister stating that they wish the hospital or interests to be transferred to the Minister, the foregoing provisions of this section shall apply to the hospital. [681]

(4) All property transferred to the Minister under this section shall vest in him free of any trust existing immediately before the appointed day, and the Minister may use any such property for the purpose of any of his functions under this Act, but shall so far as practicable secure that the objects for which any such property was used immediately before the appointed day are not prejudiced by the provisions of this section. [682]

(5) Regulations may provide—

(a) for the apportionment, as between the Minister and the other persons concerned, of interests in premises used partly for the purposes of any hospital to which this section applies and partly for other purposes and, in the case of a leasehold interest, for the severance thereof, and for vesting in the Minister and the other persons concerned the appropriate interests, and for the apportionment of rent payable in respect of any such severed lease ;

(b) for the apportionment, as between the Minister and the other persons concerned, of any other periodical sums payable in respect of any transferred property or liabilities ;

(c) for the apportionment, as between the Minister and the other persons concerned, of liabilities incurred partly for the purposes referred to in subsection (1) or subsection (2) of this section and partly for other purposes ;

(d) for the transfer to and vesting in the Minister of interests held solely for the purposes of two or more voluntary hospitals to which this section applies in premises used for the purposes of those hospitals, and of property and liabilities which would, if the interests were held and the premises used solely for the purposes of one such hospital, be transferred to the Minister under subsection (1) of this section or apportioned to him under the foregoing provisions of this subsection ; and

(e) for the determination by arbitration, in default of agreement, of any question arising as to any of the matters aforesaid. [683]

(6) This section shall not apply to rights and liabilities arising under contracts for the rendering of personal services or to rights and liabilities arising under any enactment, scheme or contract providing for the payment of superannuation benefits, except superannuation benefits payable in respect of officers employed for the purposes of a voluntary hospital who have ceased to be so employed before the appointed day, but this subsection shall be without prejudice to the provisions of Part VI of this Act relating

to the transfer and compensation of officers and the superannuation of officers. [684]

*The Minister.*—The Minister of Health (s. 1 (1)).

*Appointed day.*—See s. 79 (1), *post*. Though no day has been appointed at the time of going to press, the Prime Minister said in the House of Commons on June 9, 1947, that it was hoped to bring the Act, with the National Insurance schemes, into full operation by July 5, 1948 (see 438 H. of C. Official Report 705).

*Definitions.*—For definitions of "equipment," "the governing body," "local authority," "officer," "property," "regulations," "superannuation benefits" and "voluntary," see s. 79 (1), *post*; for definition of "hospital," see s. 79 (1), *post*, as extended by s. 9 (1), *post*.

*Notices.*—See s. 74, *post*.

*Transfer and compensation of officers.*—See s. 68, *post*.

*Superannuation.*—See s. 67, *post*.

*General effect of section.*—This section provides for the transfer as from the appointed day, subject to certain exceptions, of all hospitals, both voluntary hospitals and those belonging to local authorities, together with all property, rights and liabilities acquired or incurred solely for the purposes of such hospitals. The definition of "hospital" provided by s. 79 (1), *post*, is extended for the purposes of this section by s. 9 (1), *post*. The exceptions are: (i) any hospital not appearing to the Minister to be required for the purpose of providing hospital and specialist services in respect of which he serves a notice, as provided by sub-s. (3), subject however to the proviso to that subsection under which the authorities of the hospital concerned can insist on its being transferred; (ii) any endowment within the meaning of s. 7 (10), (11), *post*; (iii) any property or liabilities of a medical or dental school or of a recognised post-graduate medical or dental institute held or incurred solely for the purposes of the school or institute, as provided by s. 8, *post*; and (iv) rights and liabilities under contracts of personal service or in connection with the payment of superannuation benefits except those payable to officers of voluntary hospitals who have retired before the appointed day, as provided by sub-s. (6). See, generally, Preliminary Note, *ante*.

**7. Endowments of voluntary hospitals.**—(1) Where any voluntary hospital to which the last foregoing section applies is, before the appointed day, designated by the Minister under this Part of this Act as a teaching hospital or is one of a group of hospitals so designated, all endowments of the hospital held immediately before the appointed day shall on that day, by virtue of this Act, be transferred to and vest in the Board of Governors constituted under the following provisions of this Part of this Act for the teaching hospital. [685]

(2) All such endowments shall vest in the Board free of any trust existing immediately before the appointed day and shall be held by the Board on trust for such purposes relating to hospital services or to the functions of the Board under this Part of this Act with respect to research as the Board think fit, and the Board may dispose of any property comprised in those endowments and hold the proceeds thereof on trust for any of the said purposes. [686]

(3) Where any endowment which is to be vested in a Board of Governors under the foregoing provisions of this section is, immediately before the appointed day, subject to a charge in respect of a liability which would, but for this subsection, be transferred to the Minister under the last foregoing section, that liability shall, instead of being transferred to the Minister, be transferred to the Board on the appointed day. [687]

(4) All endowments of a voluntary hospital to which the last foregoing section applies, other than a hospital to which the foregoing provisions of this section apply, being endowments held immediately before the appointed day, shall on that day be transferred to and vest in the Minister by virtue of this Act free of any trust existing immediately before that day; and the Minister shall establish a fund, to be called the Hospital Endowments Fund, to which he shall transfer all such endowments:

Provided that, where an endowment is given after the passing of this Act and before the appointed day, whether to the governing body of the hospital or to trustees, upon trusts which provide either—

(a) for the administration of the property as a capital fund separate from the general funds of the hospital; or

- (b) for the application of the property for some specific object distinct from the general purposes of the hospital and involving expenditure of a capital nature ;

the endowment, instead of being transferred to the Minister and the Hospital Endowments Fund as aforesaid, shall on the appointed day, by virtue of this Act, be transferred to and vest in the Hospital Management Committee constituted under the following provisions of this Part of this Act for the hospital or for the group of hospitals in which it is comprised, and shall vest in that Committee free of any trust existing immediately before the appointed day, and shall be held by the Committee on trust for such purposes relating to hospital services or to the functions of the Committee under this Part of this Act with respect to research as the Committee think fit, and the Committee may dispose of any property comprised in any such endowment and hold the proceeds thereof on trust for any of the said purposes. [688]

- (5) Regulations shall provide—

- (a) for the control and management of the Hospital Endowments Fund by the Minister or any person authorised to act on his behalf, and for defraying out of the Fund such expenses incurred for the purpose of the control and management of the Fund as may be prescribed, and for conferring on the Minister or any such person any powers required for that purpose, including powers to sell or otherwise dispose of any assets of the Fund, and for carrying the proceeds into the Fund ;
- (b) for enabling the Minister to apply, to such extent as may be prescribed, the assets of the Fund for discharging any liabilities transferred to him under the last foregoing section in connection with the transfer of such a voluntary hospital as is mentioned in the last foregoing subsection, or transferred to him under this section ;
- (c) subject to any provision for the discharge of such liabilities, for apportioning the capital value of the Fund among the several Regional Hospital Boards and Hospital Management Committees constituted under the following provisions of this Part of this Act, in such shares as may be determined by the Minister in the prescribed manner, and for distributing the income of the Fund to those Boards and Committees proportionately to those shares ;
- (d) for enabling the Minister, on the application of a Regional Hospital Board or Hospital Management Committee, to transfer to that Board or Committee for such purposes as may be approved by the Minister any part of the capital assets of the Fund not exceeding in value the said share of that Board or Committee, and for reducing that share accordingly. [689]

(6) Subject to such general conditions as may be prescribed, any income received by a Regional Hospital Board or Hospital Management Committee under the last foregoing subsection may be used for such purposes relating to hospital services, or to the functions of the Board or Committee under this Part of this Act with respect to research, as the Board or Committee thinks fit. [690]

(7) Every Board of Governors and Hospital Management Committee shall, in the case of any endowment transferred to them under this section, and the Minister shall, in the case of any endowment transferred to him and the Hospital Endowments Fund under this section, secure, so far as is reasonably practicable, that the objects of the endowment and the observance of any conditions attaching thereto, including in particular conditions



intended to preserve the memory of any person or class of persons, are not prejudiced by the provisions of this section. [691]

(8) All rights and liabilities acquired or incurred, whether by the governing body or by trustees, solely for the purposes of managing any endowment of a voluntary hospital to which the last foregoing section of this Act applies, being rights or liabilities to which they were entitled or subject immediately before the appointed day, shall—

- (a) if the hospital has before that day been designated as a teaching hospital or is one of a group of hospitals so designated, be transferred to and vest in the Board of Governors of the teaching hospital on that day by virtue of this Act ;
- (b) if the endowment is transferred to and vested in a Hospital Management Committee by virtue of this Act, be transferred to and vest in that Committee on that day by virtue of this Act ;
- (c) in any other case be transferred to and vest in the Minister on that day by virtue of this Act. [692]

(9) Regulations may provide—

- (a) for the apportionment of any property held by the governing body of a voluntary hospital to which this section applies partly for the purposes of that hospital and partly for other purposes, being property which would, if it were held solely for the purposes of the hospital, constitute an endowment of that hospital, and for vesting the appropriate shares in the Minister or (in the case of a teaching hospital) the Board of Governors of that hospital, or (in the case of an endowment which would be transferred to a Hospital Management Committee) that Committee, and the other persons concerned ;
- (b) in connection with any such apportionment, for the severance of leases and the apportionment of rent payable in respect thereof and for the apportionment of any rights and liabilities acquired or incurred for the purposes of managing the property and of any liabilities charged thereon ;
- (c) in lieu of such apportionment, for the disposal of any such property and for the apportionment of the proceeds ;
- (d) for the apportionment of any other periodical sums payable in respect of property transferred under this section ;
- (e) for the transfer to the Hospital Endowments Fund of any property or sums apportioned to the Minister under the regulations ;
- (f) for the determination by arbitration, in default of agreement, of any question arising with respect to the matters aforesaid. [693]

(10) In this section the expression “ endowment,” in relation to a voluntary hospital, means property held by the governing body of the hospital or by trustees solely for the purposes of that hospital, being property of the following descriptions—

- (a) interests in or attaching to land other than the premises referred to in subsection (1) or subsection (5) of the last foregoing section, and in equipment, furniture or other movable property used on or in connection with such land ;
- (b) shares, stocks, bonds, debentures and other securities, and any other personal property held by way of an investment ;
- (c) money, including any credit in a banking account ;
- (d) rights under any bill of exchange, promissory note or gratuitous covenant for the payment of money :

Provided that an equitable interest held for the purposes of a voluntary

hospital in trust property in which there are other equitable interests shall not be deemed to be an endowment of that hospital. [694]

(11) Where the Minister is satisfied that any property transferred to him under subsection (2) of the last foregoing section, being property held for the purposes of a hospital vested in a local authority immediately before the appointed day, would, if the hospital had been a voluntary hospital immediately before that day, have been an endowment of that hospital within the meaning of this section, he shall—

- (a) if the hospital has been designated as a teaching hospital or is one of a group of hospitals so designated, transfer the property to the Board of Governors constituted under the following provisions of this Part of this Act for the teaching hospital ;
- (b) if the endowment would have been transferred to the Hospital Management Committee, transfer the property to that Committee ;
- (c) in any other case transfer the property to the Hospital Endowments Fund ;

and the foregoing provisions of this section shall apply to the property in like manner as they apply to endowments of voluntary hospitals. [695]

*The Minister.*—The Minister of Health (s. 1 (1)).

*Appointed day.*—See s. 79 (1), *post*. Though no day has been appointed at the time of going to press, the Prime Minister said in the House of Commons on June 9, 1947, that it was hoped to bring the Act, with the National Insurance schemes, into full operation by July 5, 1948 (see 438 H. of C. Official Report 705).

*Definitions.*—For definition of "hospital," see s. 79 (1), *post*, as extended by s. 9 (1), *post* ; for definitions of "the governing body," "local authority," "prescribed," "property," "regulations," "teaching hospital" and "voluntary," see s. 79 (1), *post*.

*Regulations.*—See s. 75, *post*.

*Teaching hospital.*—As to the designation of a teaching hospital and the constitution of a Board of Governors therefor, see s. 11 (8), *post*. For the Board's powers with respect to research, see s. 16 (2), *post*.

*Hospital Management Committees.*—Hospital Management Committees will be appointed by Regional Hospital Boards (s. 11 (3)), and constituted in accordance with Sched. III, Part II, *post* (s. 11 (6)).

*Property held on trust.*—As to power of a Board of Governors or a Hospital Management Committee to hold property upon trust, see s. 59, *post*.

*Hospital Endowments Fund.*—As to the accounts and investments of the Fund, see s. 56, *post*. Speaking in Committee on the application of the Fund, the Minister of Health pointed out that it would not be used for general hospital purposes. He said : "The fact is that the finances for general hospital purposes will be found by the State. This" (i.e., an allocation from the Hospital Endowments Fund) "is pocket money. It seems to me to be a very useful thing to do. Not only shall we try by global budgets to give the Regional Boards and the hospital management committees freedom of movement within the budget so that they will not need sanction for each item of expenditure, but, by making this money available to them, they will have even more elbow room, and therefore, will be able to give additional amenities and spend additional sums over and above what they might be able to provide from the State budget itself." (H. of C. Official Report, S.C.C., May 23, 1946, col. 271.)

**8. Exception for medical and dental schools.**—(1) Where a medical or dental school is associated with any hospital to which section six of this Act applies, nothing in that section or the last foregoing section shall be taken as affecting any property or liabilities held or incurred solely for the purposes of that school, and those purposes shall not be deemed to be purposes of the hospital. [696]

(2) All property and liabilities held or incurred solely for the purposes of any such school, not being property already vested in the bodies hereafter in this section mentioned or liabilities to which those bodies are already subject, shall, on the appointed day, be transferred by virtue of this Act—

- (a) in the case of a general medical school of the university of London or any school in the faculty of medicine of that university which is recognised for dentistry only, to the governing body of that school ;
- (b) in the case of the Welsh National School of Medicine, to the governing body of that school ;

(c) in the case of a medical or dental school of a university other than the university of London or the university of Wales, to the governing body of the university of which the school is a part ;

and shall vest in the said governing body by virtue of this Act. [697]

(3) If any institute for the post-graduate teaching of medicine or dentistry, being an institute associated with any hospital to which section six of this Act applies, is recognised by the Minister for the purposes of this section before the appointed day, subsection (1) of this section shall apply thereto in like manner as it applies to a medical or dental school so associated, and all property and liabilities held or incurred solely for the purposes of any such institute, not being property already vested in the governing body of the institute or liabilities to which that body is already subject, shall, on the appointed day, be transferred to and vest in the governing body of the institute by virtue of this Act. [698]

*Appointed day.*—See s. 79 (1), *post*. Though no day has been appointed at the time of going to press, the Prime Minister said in the House of Commons on June 9, 1947, that it was hoped to bring the Act, with the National Insurance schemes, into full operation on July 5, 1948 (see 438 H. of C. Official Report 705).

*Definitions.*—For definition of "hospital," see s. 79 (1), *post*, as extended by s. 9 (1), *post* ; for definitions of "medical," "property" and "university," see s. 79 (1), *post*.

**9. Supplementary provisions relating to transfer of hospital property and liabilities.**—(1) For the purposes of the foregoing provisions of this Part of this Act relating to the transfer of property and liabilities, the expression "hospital" includes, in addition to the premises specified in the definition of the said expression contained in section seventy-nine of this Act, any clinic, dispensary or out-patient department not maintained in connection with such premises as aforesaid at which treatment by or under the direction of medical or dental practitioners is provided, not being—

- (a) a clinic or out-patient department maintained by a local education authority or maintained by any other local authority for the care of expectant and nursing mothers and young children ; or
- (b) a clinic, out-patient department or dispensary where medical advice or treatment is ordinarily given by general medical practitioners and not by specialists ;

and also includes any part of a workhouse within the meaning of the Poor Law Act, 1930, which would, if it were a separate institution, be a hospital as defined by the said section seventy-nine, but save as aforesaid does not include any premises forming part of or ancillary to any institution or undertaking of which the main purpose is not therapeutic. [699]

(2) Where in connection with a voluntary hospital any premises are used for providing accommodation for paying patients and any profits thereby earned are made available for the benefit of the hospital, the premises shall be deemed for the purposes of this Part of this Act to form part of the hospital. [700]

(3) Where—

- (a) any premises are intended to be used for the purposes of a hospital to which section six of this Act applies but have not been so used before the appointed day, and work has been done before that day for the purpose of adapting the premises for such use ;
- (b) it is intended to construct on any land new buildings or works which will on completion be used for the purposes of such a hospital as aforesaid, and the work of constructing the buildings or works has commenced before the appointed day ;
- (c) any premises used for the purposes of such a hospital as aforesaid

have been destroyed and have not been restored before the appointed day ; or

- (d) any premises normally used for the purposes of such a hospital as aforesaid are, owing to damage or any other cause, not so used immediately before the appointed day ;

any interests in those premises or in that land or, in the case of destroyed premises, the site thereof held immediately before the appointed day by the governing body of the hospital or trustees or, as the case may be, the local authority in whom the hospital is vested, being interests held solely for the purposes of the hospital, shall be deemed for the purposes of this Part of this Act to be interests in premises forming part of the hospital. **[701]**

(4) Where any premises or land normally used for other purposes are or is temporarily used immediately before the appointed day by a local authority for the purposes of a hospital, the premises or land shall not be deemed for the purposes of this Part of this Act to be a hospital or, as the case may be, to form part of a hospital. **[702]**

(5) Any right under the War Damage Act, 1943, to receive a payment in respect of war damage within the meaning of that Act, held immediately before the appointed day by the governing body of a voluntary hospital or by trustees solely for the purposes of such a hospital, and any such right other than a right to receive a payment of cost of works or a temporary works payment within the meaning of that Act, held immediately before the appointed day by a local authority in whom a hospital is vested, in respect of war damage to property which before the occurrence of the damage was held for the purposes of that hospital, shall be deemed for the purposes of this Part of this Act to be a right acquired solely for the purposes of carrying on the business of the voluntary hospital or, as the case may be, a right held by the local authority solely for the purposes of the hospital vested in them :

Provided that, if the property to which the right relates was before the occurrence of the damage an endowment (within the meaning of section seven of this Act) of a voluntary hospital, the right shall for the purposes of this Part of this Act be deemed to be such an endowment. **[703]**

(6) For the purposes of section fourteen of the War Damage Act, 1943 (which relates to the compulsory acquisition of partially damaged land), the transfer of any land under the foregoing provisions of this Part of this Act shall not be deemed to be the compulsory acquisition thereof. **[704]**

(7) Where any property was, at any time between the twenty-first day of March, nineteen hundred and forty-six, and the appointed day, held or used by such persons and for such purposes as would result, but for anything done after the said date, in the transfer of the property to the Minister or to the Board of Governors of a teaching hospital under the foregoing provisions of this Part of this Act, and that property ceases to be so held or used before the appointed day, it shall nevertheless be treated for the purposes of those provisions as if it had continued to be so held or used until the appointed day, unless it is proved by a person whose interest in that property would be transferred to the Minister or Board under those provisions, that the fact that it was not so held or used immediately before the appointed day was due to something done or occurring in the ordinary course of business, and was in no way connected with the said provisions. **[705]**

(8) Regulations may make such provision supplementary to or consequential on the foregoing provisions of this Part of this Act relating to the transfer of property and liabilities as appears to the Minister to be necessary

or expedient, and in particular, but without prejudice to the generality of this subsection, regulations may provide—

- (a) for the determination by arbitration, in default of agreement, of any question arising as to whether any property or liability will be or has been transferred under the said provisions or as to the person to whom it will be or has been transferred ;
- (b) for the amendment of documents relating to any transferred property or liabilities to such extent as appears to the Minister to be necessary for the purposes of such transfer ; and
- (c) for enabling pending proceedings relating to any transferred property or liabilities to be carried on. [706]

*Appointed day.*—See s. 79 (1), *post*. Though no day has been appointed at the time of going to press, the Prime Minister said in the House of Commons on June 9, 1947, that it was hoped to bring the Act, with the National Insurance schemes, into full operation by July 5, 1948 (see 438 H. of C. Official Report 705).

*Definitions.*—For meaning of “ local authority,” “ local education authority,” “ medical,” “ medical practitioner,” “ property,” “ regulations,” “ teaching hospital ” and “ voluntary,” see s. 79 (1), *post*.

*Regulations.*—See s. 75, *post*.

*Poor Law Act, 1930.*—12 Halsbury’s Statutes 968. “ Workhouse ” is defined for the purposes of that Act by s. 163 thereof, *ibid.* 1048.

*War Damage Act, 1943.*—36 Halsbury’s Statutes 334. For s. 14 thereof, see *ibid.* 353.

*Sub-s. (5).*—Sub-s. (5) has the effect of bringing within the transfer provisions of ss. 6 and 7, *ante*, any rights of voluntary hospitals to receive payment for war damage under the War Damage Act, 1943, and any such rights, other than rights to a cost of works or a temporary works payment under that Act, of local authorities in respect of a hospital vested in them. Any such right in the case of teaching hospitals will vest in the Board of Governors of that hospital, and in the case of any other hospital, in the Minister, unless the right relates to an endowment within the meaning of s. 7, *ante*, when it will vest in the Board of Governors upon trust for certain purposes or in the Minister for transfer to the Hospital Endowments Fund in accordance with the provisions of that section.

*Sub-s. (6).*—S. 14 of the War Damage Act, 1943, has the effect of providing that any payment in respect of war damage to premises which are subsequently compulsorily acquired or acquired by a person having compulsory powers is to be made to the person from whom they were so acquired. Sub-s. (6), *supra*, by providing that the transfer of land under the preceding sections of Part II of this Act shall not be deemed to be compulsory acquisition thereof for the purposes of the said s. 14, has the effect of bringing any right to such a payment within the transfer provisions of ss. 6 and 7, *ante*.

**10. Power to acquire hospital equipment.**—Where, in the exercise of powers to purchase land conferred on him by Part VI of this Act, the Minister acquires any hospital (as defined by the last foregoing section), whether or not carried on for profit, he may also acquire, either by agreement or compulsorily in accordance with the provisions of the Second Schedule to this Act, any equipment, furniture or other moveable property used in or in connection with the hospital premises, and the provisions of the said Schedule relating to compensation and certain other matters shall apply. [707]

*The Minister.*—The Minister of Health (s. 1 (1)).

*Definitions.*—For definitions of “ equipment ” and “ property,” see s. 79 (1), *post*.

*Power to purchase land.*—Power to purchase land is conferred on the Minister by s. 58, *post*.

#### *Local administration of hospital and specialist services*

**11. Regional Hospital Boards, Hospital Management Committees, and Boards of Governors of teaching hospitals.**—(1) The Minister shall by order constitute, in accordance with Part I of the Third Schedule to this Act, boards, to be called Regional Hospital Boards, for such areas as he may by order determine, for the purpose of exercising functions with respect to the administration of hospital and specialist services in those areas ; and the Minister shall secure, so far as practicable, that each area is such that the provision of the said services in the area can conveniently be associated with a university having a school of medicine. [708]

(2) The order or orders made under the foregoing subsection determining

the areas for which the Regional Hospital Boards are to be constituted shall be separate from the order or orders constituting those Boards, and before making any order determining such an area, the Minister shall consult with such bodies and organisations as appear to him to be concerned. [709]

(3) Every Regional Hospital Board shall, within such period as the Minister may by direction specify, submit to the Minister a scheme for the appointment by them of committees, to be called Hospital Management Committees, for the purpose of exercising functions with respect to the management and control of individual hospitals or groups of hospitals, other than teaching hospitals, providing hospital and specialist services in the area of the Board. [710]

(4) The Minister may approve, with or without modifications, which may include additions or exceptions, any scheme submitted to him by a Regional Hospital Board under the last foregoing subsection, and it shall be the duty of the Board to give effect to the scheme as approved by the Minister. [711]

(5) A Regional Hospital Board may at any time, and if directed by the Minister shall within such period as may be specified in the direction, submit a new scheme providing for the modification of the scheme in force under this section, and the last foregoing subsection shall apply to any such new scheme. [712]

(6) A Hospital Management Committee shall be constituted in accordance with Part II of the Third Schedule to this Act. [713]

(7) If a Regional Hospital Board fail to submit any scheme which they are required to submit within a period specified by direction of the Minister, the Minister may himself prepare a scheme and it shall have effect as if it had been submitted and approved under the foregoing provisions of this section. [714]

(8) The Minister may, after consultation with the university concerned, by order designate as a teaching hospital any hospital or group of hospitals which appears to him to provide for any university facilities for undergraduate or post-graduate clinical teaching, and the Minister shall, in the case of any hospital or group so designated, by order constitute, in accordance with Part III of the Third Schedule to this Act, a Board of Governors for the purpose of exercising functions with respect to the administration of that hospital or group; and any group of hospitals so designated shall, as from the appointed day or the date of the designation (whichever last occurs), be deemed for the purposes of this Act to be a single hospital. [715]

(9) Where after the appointed day—

- (a) any of the areas for which Regional Hospital Boards are constituted are varied, whether or not such variation involves the constitution of a new Board or the termination of the functions of an existing Board;
- (b) a new scheme is made under subsection (5) of this section involving the appointment of a new Hospital Management Committee or the termination of the functions of an existing Committee or any variation in the grouping of hospitals managed by such Committees; or
- (c) a new teaching hospital is designated or the designation of a teaching hospital is revoked, or any hospital is included in or excluded from a group of hospitals so designated;

the Minister may by order make provision for any supplementary and incidental matters for which it appears to him to be necessary or expedient to provide, and in particular—



- (i) for the transfer and compensation of officers, and the transfer of property and liabilities ;
- (ii) for making a new apportionment or an adjustment, in accordance with regulations made under subsection (5) of section seven of this Act, of the shares of Regional Hospital Boards and Hospital Management Committees in the capital value of the Hospital Endowments Fund ; and
- (iii) in a case to which paragraph (c) of this subsection applies, for requiring capital assets to be transferred from the said Fund to the Board of Governors of a teaching hospital, or, as the case may be, from any such Board to the said Fund. [716]

(10) The supplementary provisions contained in Part IV of the Third Schedule to this Act shall have effect in relation to the various bodies constituted under this section. [717]

*General effect of section.*—See Preliminary Note, *ante*.

*Appointed day.*—See s. 79 (1), *post*. Though no day has been appointed at the time of going to press, the Prime Minister said in the House of Commons on June 9, 1947, that it was hoped to bring the Act, with the National Insurance schemes, into full operation by July 5, 1948 (see 438 H. of C. Official Report 705).

*Hospital and specialist services.*—As to these services, see s. 3 (1), *ante*.

*Definitions.*—For definitions of "hospital," "regulations" and "university," see s. 79 (1), *post*.

*Regulations.*—As to regulations, see s. 75, *post*.

*Regional Hospital Areas.*—The National Health Service (Determination of Regional Hospital Areas) Order, 1946 (S. R. & O., 1946, No. 2158), *post*, has been made under this section specifying 14 areas for which Regional Hospital Boards are to be constituted.

*Expenditure of Boards and Committees.*—The approved expenditure of Regional Hospital Boards and of Boards of Governors of teaching hospitals will be paid out of moneys provided by Parliament (s. 54 (1), (6)). The expenditure of a Hospital Management Committee will be defrayed by the Regional Hospital Board for the area in which the hospital is situated (s. 54 (2)). As to payments in respect of loss of remunerative time or travelling or subsistence expenses of members of these bodies, see s. 54 (5), (6) and Sched. III, Part IV, para. 2, *post*.

**12. Functions of Boards and Management Committees.**—(1) Subject to the exercise of functions by Hospital Management Committees in accordance with the next following subsection, it shall be the duty of a Regional Hospital Board, subject to and in accordance with regulations and such directions as may be given by the Minister, generally to administer on behalf of the Minister the hospital and specialist services provided in their area, and in particular—

- (a) to appoint officers required to be employed at or for the purposes of any hospital providing such services, other than a teaching hospital ;
- (b) to maintain any premises forming part of or used in connection with any such hospital ;
- (c) to acquire on behalf of the Minister and to maintain equipment, furniture and other moveable property required for the purposes of any such hospital. [718]

(2) It shall be the duty of the Hospital Management Committee of any hospital or group of hospitals, subject to and in accordance with regulations and such directions as may be given by the Minister or the Regional Hospital Board, to control and manage that hospital or group of hospitals on behalf of the Board, and for that purpose to exercise on behalf of the Board such of the functions of the Board relating to that hospital or group of hospitals as may be prescribed. [719]

(3) It shall be the duty of the Board of Governors of every teaching hospital, as from the appointed day, in accordance with regulations and such directions as may be given by the Minister, generally to manage and control the hospital on behalf of the Minister, and in particular—

- (a) to provide for the university with which the hospital is associated



such facilities as appear to the Minister to be required for clinical teaching and research ;

- (b) to appoint officers required to be employed at or for the purposes of the hospital ;
- (c) to maintain any premises forming part of or used in connection with the hospital ;
- (d) to acquire on behalf of the Minister and to maintain equipment, furniture and other moveable property required for the purposes of the hospital. [720]

*Appointed day.*—See s. 79 (1). Though no day has been appointed at the time of going to press, the Prime Minister said in the House of Commons on June 9, 1947, that it was hoped to bring the Act, with the National Insurance schemes, into full operation by July 5, 1948 (see 438 H. of C. Official Report 705).

*Definitions.*—For the definitions of "equipment," "hospital," "officer," "prescribed," "property," "regulations," "teaching hospital" and "university," see s. 79 (1), *post*.

*Regulations.*—As to regulations, see s. 75, *post*.

*Directions.*—Directions given by the Minister under this section will be administrative, not medical, directions (*per* the Minister of Health in Committee ; H. of C. Official Report, S.C.C., June 4, 1946, col. 442).

*Research.*—As to the powers of Boards of Governors of teaching hospitals, Regional Hospital Boards and Hospital Management Committees to conduct research, see s. 16 (2), *post*. As to their legal status, see s. 13, *post*.

*Hospital and specialist services.*—As to these services, see s. 3 (1), *ante*.

**13. Legal status of Boards and Management Committees.**—(1) A Regional Hospital Board and the Board of Governors of a teaching hospital shall, notwithstanding that they are exercising functions on behalf of the Minister, and a Hospital Management Committee shall, notwithstanding that they may be exercising functions on behalf of the Regional Hospital Board, be entitled to enforce any rights acquired, and shall be liable in respect of any liabilities incurred (including liabilities in tort), in the exercise of those functions, in all respects as if the Board or Committee were acting as a principal, and all proceedings for the enforcement of such rights or liabilities, shall be brought by or against the Board or Committee in their own name. [721]

(2) A Regional Hospital Board, Board of Governors or Hospital Management Committee shall not be entitled to claim in any proceedings any privilege of the Crown in respect of the discovery or production of documents, but this subsection shall be without prejudice to any right of the Crown to withhold or procure the withholding from production of any document on the ground that its disclosure would be contrary to the public interest. [722]

*The Minister.*—The Minister of Health (s. 1 (1)).

*Definition.*—For definition of "teaching hospital," see s. 79 (1), *post*.

**14. Conditions of service and appointment of officers.**—(1) All officers employed for the purposes of any hospital providing hospital and specialist services, other than a teaching hospital, shall be officers of the Regional Hospital Board for the area in which the hospital is situated, and all officers employed for the purposes of a teaching hospital shall be officers of the Board of Governors of that hospital, and the remuneration and conditions of service of all such officers shall, subject to regulations, be determined by the Regional Hospital Board or the Board of Governors, as the case may be. [723]

(2) Regulations may make provision with respect to the appointment of such classes of the medical or dental officers employed on the staff of any such hospitals as aforesaid as may be specified in the regulations, and such regulations shall, without prejudice to the generality of the foregoing provision, provide—

- (a) for the advertisement by the Regional Hospital Board or Board of

Governors, as the case may be, of any vacancy in any office to which the regulations apply ;

- (b) for the constitution by the Regional Hospital Board or Board of Governors, as the case may be, on the occasion of each such vacancy, of an advisory appointments committee consisting—

(i) in the case of a hospital other than a teaching hospital, of persons nominated by the Regional Hospital Board and the Hospital Management Committee of the hospital affected, respectively ;

(ii) in the case of a teaching hospital, of persons nominated by the Board of Governors and the university with which the hospital is associated, respectively ;

- (c) for the selection by the appointments committee from the applicants of the persons considered by them to be suitable for the appointment, and for the making of the appointment, from the persons so selected, by the Regional Hospital Board or Board of Governors, as the case may be ;

- (d) for the payment by the Regional Hospital Board or Board of Governors, as the case may be, of the reasonable expenses of any appointments committee constituted as aforesaid. [724]

*General effect of section.*—See Preliminary Note, *ante*.

*Definitions.*—For definitions of “hospital,” “medical,” “officer,” “regulations,” “teaching hospital” and “university,” see s. 79 (1), *post*. For the construction of “purposes of a hospital,” see s. 79 (2), *post*.

*Regulations.*—As to regulations, see s. 75, *post*. Regulations to be made under s. 68, *post*, will provide for the transfer of officers of hospitals which vest in the Minister to Regional Hospital Boards.

*Hospital and specialist services.*—As to these services, see s. 3 (1), *ante*.

**15. Medical schools in London.**—(1) If any general medical school of the university of London or any school in the faculty of medicine of that university which is recognised for dentistry only is not incorporated at the passing of this Act, the governing body of the school shall, within a period of six months from the passing of this Act, prepare and submit to the governing body of the said university a scheme, to take effect on the appointed day, for constituting a new governing body of the school, which shall be a body corporate with power to hold land without license in mortmain, and for conferring powers and imposing duties on that body and otherwise for the future management and control of the school ; and any such scheme shall make provision for including among the members of the new governing body persons representing the university, the teaching staff of the school, and the Board of Governors of the teaching hospital with which the school is associated, respectively. [725]

(2) A scheme prepared and submitted under the last foregoing subsection shall not have effect unless it has been approved by the governing body of the said university, and the said governing body may either approve the scheme without modifications or with such modifications as may be agreed between them and the governing body of the school. [726]

(3) Any such scheme may be amended by a new scheme prepared by the governing body of any such school and submitted to and approved by the governing body of the university of London. [727]

(4) Any scheme prepared, submitted and approved under this section shall have effect notwithstanding anything in any Act of Parliament, charter, or other document affecting the constitution of the school. [728]

hoped to bring the Act, with the National Insurance schemes, into full operation by July 5, 1948 (see 438 H. of C. Official Report 705).

*Definitions.*—For definitions of “teaching hospital” and “university,” see s. 79 (1), *post*.

### *Ancillary services provided by the Minister*

**16. Research.**—(1) Without prejudice to the general powers and duties conferred or imposed on the Minister under the Ministry of Health Act, 1919, and the duties imposed on the Committee of the Privy Council for Medical Research under the said Act, the Minister may conduct, or assist by grants or otherwise any person to conduct, research into any matters relating to the causation, prevention, diagnosis or treatment of illness or mental defectiveness. [729]

(2) The Board of Governors of a teaching hospital and a Regional Hospital Board and a Hospital Management Committee shall have power to conduct research into any of the matters aforesaid. [730]

*General effect of section.*—See Preliminary Note, *ante*.

*The Minister.*—The Minister of Health (s. 1 (1)).

*Ministry of Health Act, 1919.*—3 Halsbury's Statutes 416. For the general powers conferred on the Minister, see s. 2 thereof (*ibid.*), and for the duties imposed on the Committee of the Privy Council for Medical Research, see s. 3 thereof (*ibid.* 417).

*Definitions.*—For the meanings of “illness” and “teaching hospital,” see s. 79 (1), *post*.

*Functions of Boards and Committees.*—For the functions of Regional Hospital Boards, Hospital Management Committees and Boards of Governors of teaching hospitals, see s. 12, *ante*.

**17. Bacteriological service.**—The Minister may provide a bacteriological service, which may include the provision of laboratories, for the control of the spread of infectious diseases, and the Minister may allow persons to make use of services provided at such laboratories on such terms, including terms as to the payment of charges, as the Minister thinks fit. [731]

*The Minister.*—The Minister of Health (s. 1 (1)).

*Recovery of charges.*—As to the recovery of charges by the Minister, see s. 71, *post*. Normally no charges may be made for services provided under the Act (s. 1 (2)).

**18. Blood transfusion and other services.**—Where the Minister has, in providing hospital and specialist services, acquired supplies of human blood for the purpose of carrying out blood transfusion, or supplies of any other substances or preparations not readily obtainable in cases of emergency, he may make arrangements for making such supplies available, on such terms, including terms as to the payment of charges, as the Minister thinks fit, to local health authorities and medical practitioners who require them in cases of emergency. [732]

*The Minister.*—The Minister of Health (s. 1 (1)).

*Hospital and specialist services.*—As to these services, see s. 3, *ante*.

*Blood transfusion service.*—The blood transfusion service will be one of the services for which a Standing Advisory Committee will be set up under s. 2 (3), *ante* (per the Minister of Health, H. of C. Official Report, S.C.C., June 4, 1946, col. 451). It is not intended to make a charge for the supply of human blood or of any other substance now known to the medical profession, but charges may in the future be made in respect of newly discovered substances, the cost of supplying which would place an undue financial burden on the scheme (*ibid.*, col. 448). Normally no charges may be made for services provided under the Act (s. 1 (2)).

*Recovery of charges.*—As to the recovery of charges by the Minister, see s. 71, *post*. Normally no charges may be made for services provided under the Act (s. 1 (2)).

## PART III

### HEALTH SERVICES PROVIDED BY LOCAL HEALTH AUTHORITIES

**19. Local health authorities.**—(1) Subject to the provisions of this section, the local authority for the purposes of this Part of this Act, who shall be called the “local health authority”, shall for each county be the council

of the county and for each county borough be the council of the county borough. [733]

(2) Where it appears to the Minister to be expedient in the interests of the efficiency of any services provided by local health authorities, whether under this Part of this Act or under any other enactment conferring functions on any local health authority in their capacity as such an authority, that a joint board should be established for the areas of two or more local health authorities for the purpose of performing all or any of the functions of those authorities, the Minister may by order constitute a joint board consisting of members appointed by those authorities and provide for the exercise by the board, in lieu of the authorities, of such of the said functions as may be specified in the order :

Provided that the Minister shall not make such an order except after a local inquiry, unless all the authorities for the areas concerned have consented to the making of the order. [734]

(3) The provisions of Part I of the Fourth Schedule to this Act shall have effect with respect to joint boards constituted under this section, and to orders constituting such joint boards and the provisions of Part II of the Fourth Schedule to this Act shall have effect with respect to health committees of local health authorities. [735]

*General effect of section.*—See Preliminary Note, *ante*.

*The Minister.*—The Minister of Health (s. 1 (1)).

*Inquiries.*—As to inquiries, see s. 70, *post*.

**20. Proposals for provision of services by local health authority.**—(1) Every local health authority shall, within such period as the Minister may by direction specify, submit to the Minister proposals for carrying out their duties under the next following eight sections of this Act.

The Minister may specify different periods under this section for proposals relating to duties under different sections. [736]

(2) Not later than the day on which the proposals are submitted to the Minister, the local health authority shall serve a copy thereof—

- (a) on every voluntary organisation which to the knowledge of the local health authority provides in the area of the authority services of the kind dealt with in the proposals, and
- (b) on the Executive Council (as constituted under Part IV of this Act), and the Regional Hospital Board for any area which consists of or comprises the area of the local health authority or any part thereof, and the Board of Governors of any teaching hospital situated in the area of the local health authority; and
- (c) on every local authority for an area forming part of the area of the local health authority;

and any such voluntary organisation, Council, Board or authority may, within two months of the service on them of a copy of the proposals, make recommendations to the Minister for modifying the proposals and shall, not later than the day on which such recommendations are made, serve a copy thereof on the local health authority. [737]

(3) The Minister may approve the proposals with or without modifications (which may include additions or exceptions), and it shall be the duty of the local health authority to carry out their duties under the next following eight sections of this Act in accordance with the proposals submitted and approved for their area under this section, subject to any modifications made by subsequent proposals so submitted and approved. [738]

(4) A local health authority may at any time, and if directed by the Minister shall within the period specified in the direction, submit new

proposals providing for the modification of the existing proposals, and the last two foregoing subsections shall apply to any such new proposals. [739]

(5) If any local health authority fail to submit any proposals which they are required to submit within a period specified by direction of the Minister, the Minister may himself make proposals, and they shall have effect as if they had been submitted and approved under the foregoing provisions of this section :

Provided that, before making any such proposals, the Minister shall serve a copy of the draft proposals on every voluntary organisation which to the knowledge of the Minister provides in the area of the local health authority services of the kind dealt with in the proposals and on the bodies mentioned in paragraph (b) or paragraph (c) of subsection (2) of this section, and give an opportunity to those organisations and bodies to make recommendations to him for modifying the proposals. [740]

*General effect of section.*—See Preliminary Note, *ante*. This section applies not only to the duties of local health authorities under the next eight sections, but also to their duties under the Lunacy and Mental Treatment Acts, 1890 to 1930, and the Mental Deficiency Acts, 1913 to 1938 ; see s. 51 (1), *post*.

*The Minister.*—The Minister of Health (s. 1 (1)).

*Local health authorities.*—Local health authorities are county councils or county borough councils (s. 19 (1)).

*Definitions.*—For definitions of “ local authority ” and “ voluntary,” see s. 79 (1), *post*.

*Default by a local health authority.*—As to the powers of the Minister when a local health authority fails to carry out its functions under the Act or fails to comply with any regulations or directions, see s. 57, *post*.

*Grants to local health authorities.*—As to grants to local health authorities in respect of expenditure incurred in carrying out their functions, see s. 53, *post*.

**21. Health Centres.**—(1) It shall be the duty of every local health authority to provide, equip, and maintain to the satisfaction of the Minister premises, which shall be called “ health centres ”, at which facilities shall be available for all or any of the following purposes :—

- (a) for the provision of general medical services under Part IV of this Act by medical practitioners ;
- (b) for the provision of general dental services under Part IV of this Act by dental practitioners ;
- (c) for the provision of pharmaceutical services under Part IV of this Act by registered pharmacists ;
- (d) for the provision or organisation of any of the services which the local health authority are required or empowered to provide ;
- (e) for the provision of the services of specialists or other services provided for out-patients under Part II of this Act ; or
- (f) for the exercise of the powers conferred on the local health authority by section one hundred and seventy-nine of the Public Health Act, 1936, or section two hundred and ninety-eight of the Public Health (London) Act, 1936, for the publication of information on questions relating to health or disease, and for the delivery of lectures and the display of pictures or cinematograph films in which such questions are dealt with. [741]

(2) A local health authority shall to the satisfaction of the Minister provide staff for any health centre provided by them :

Provided that a local health authority shall not employ medical or dental practitioners at health centres for the purpose of providing general medical services or general dental services under Part IV of this Act. [742]

*General effect of section.*—This is one of eight sections (ss. 21–28) imposing duties upon local health authorities, proposals for the carrying out of which they are to submit to the Minister in accordance with s. 20 (1), *ante*. See, generally, Preliminary Note, *ante*. This section will come into force on the appointed day (see s. 30, *post*, and note thereto).

*The Minister.*—The Minister of Health (s. 1 (1)).

*Local health authorities.*—Local health authorities are county councils and county borough councils (s. 19 (1)).

*Public Health Act, 1936, s. 179.*—29 Halsbury's Statutes 446.

*Public Health (London) Act, 1936, s. 298.*—30 Halsbury's Statutes 599.

*Definitions.*—For definitions of "dental practitioner," "medical practitioner" and "registered pharmacist," see s. 79 (1), *post*.

*General medical, etc., services.*—As to general medical services, see s. 33, *post*; as to general dental services, see s. 40, *post*; as to pharmaceutical services, see s. 38, *post*; and as to the services of specialists, see s. 3 (1), *ante*.

*Health centres.*—Health centres providing facilities for general medical or dental services or pharmaceutical services are, subject to regulations, to be made available for those services on terms agreed by the local health authority with the Executive Council, who may recover from medical and dental practitioners providing such services the cost of any payments made by them to the authority; see s. 46, *post*.

**22. Care of mothers and young children.**—(1) It shall be the duty of every local health authority to make arrangements for the care, including in particular dental care, of expectant and nursing mothers and of children who have not attained the age of five years and are not attending primary schools maintained by a local education authority. [743]

(2) The local health authority may, with the approval of the Minister, make and recover from persons availing themselves of the services provided under this section such charges (if any) in respect of any articles provided as the authority consider reasonable, having regard to the means of those persons. [744]

(3) The local health authority shall be the welfare authority for the purposes of Part VII of the Public Health Act, 1936, and section two hundred and fifty-five of the Public Health (London) Act, 1936, and the local authority for the purposes of Part XIII of the Public Health (London) Act, 1936. [745]

(4) Regulations may provide, in the case of areas where, under Part III of the First Schedule to the Education Act, 1944, schemes of divisional administration relating to the functions of local education authorities with respect to school health services are in force, for the making, variation and revocation of corresponding schemes of divisional administration relating to the functions of local health authorities under subsection (1) of this section with respect to the care of children who have not attained the age of five years and are not attending primary schools maintained by a local education authority, and the functions of such authorities under subsection (3) of this section. [746]

(5) A local health authority may, with the approval of the Minister, contribute to any voluntary organisation formed for any of the purposes mentioned in subsection (1) of this section. [747]

*General effect of section.*—This is one of eight sections (ss. 21–28) imposing duties upon local health authorities, proposals for the carrying out of which they are to submit to the Minister in accordance with s. 20 (1), *ante*. See, generally, Preliminary Note, *ante*. This section will come into force on the appointed day (see s. 80, *post*, and note thereto).

*The Minister.*—The Minister of Health (s. 1 (1)).

*Local health authorities.*—Local health authorities are county councils and county borough councils (s. 19 (1)).

*Recovery of charges.*—As to the recovery of charges by a local health authority, see s. 71, *post*. Normally no charges may be made for services provided under the Act (s. 1 (2)).

*Definitions.*—For definitions of "local education authority" and "voluntary," see s. 79 (1), *post*.

*Public Health Act, 1936, Part VII.*—29 Halsbury's Statutes 460.

*Public Health (London) Act, 1936, s. 255, Part XIII.*—30 Halsbury's Statutes 580, 581.

*Education Act, 1944, Sched. I, Part III.*—37 Halsbury's Statutes 225.

**23. Midwifery.**—(1) The local health authority shall be the local supervising authority for the purposes of the Midwives Acts, 1902 to 1936, and accordingly in section eight of the Midwives Act, 1902, for the words "council of a county or county borough" there shall be substituted the words "local health authority" and for the words "said county or county borough" there shall be substituted the words "said authority". [748]



(2) It shall be the duty of every local health authority to secure, whether by making arrangements with Boards of Governors of teaching hospitals, Hospital Management Committees or voluntary organisations for the employment by those Boards, Committees or organisations of certified midwives or by themselves employing such midwives, that the number of certified midwives so employed who are available in the authority's area for attendance on women in their homes as midwives, or as maternity nurses during childbirth and from time to time thereafter during a period not less than the lying-in period, is adequate for the needs of the area.

In this subsection the expression "lying-in period" means the period defined as the lying-in period by any rule for the time being in force under section three of the Midwives Act, 1902. [749]

(3) Subsection (1) of section nine of the Midwives Act, 1936 (which enables the Minister to prescribe conditions subject to which fees are to be payable by the local health authority to medical practitioners called in by midwives), shall have effect as if at the end of the subsection there were added the words "including conditions as to the qualifications of such medical practitioners". [750]

*General effect of section.*—This is one of eight sections (ss. 21–28) imposing duties upon local health authorities, proposals for the carrying out of which they are to submit to the Minister in accordance with s. 20 (1), *ante*. See, generally, Preliminary Note, *ante*. This section will come into force on the appointed day (see s. 30, *post*, and note thereto).

*The Minister.*—The Minister of Health (s. 1 (1)).

*Local health authorities.*—Local health authorities are county councils and county borough councils (s. 19 (1)).

*Definitions.*—For definitions of "certified midwife," "medical practitioner," "teaching hospital" and "voluntary," see s. 79 (1), *post*.

*Midwives Acts, 1902 to 1936.*—The Midwives Acts, 1902 to 1936 are the Midwives Act, 1902 (11 Halsbury's Statutes 729); the Midwives Act, 1918 (*ibid.* 744); the Midwives Act, 1926 (*ibid.* 783); and the Midwives Act, 1936 (29 Halsbury's Statutes 264).

*Midwives Act, 1902, ss. 3, 8.*—11 Halsbury's Statutes 730, 732.

*Midwives Act, 1936, s. 9 (1).*—29 Halsbury's Statutes 272.

**24. Health visiting.**—(1) It shall be the duty of every local health authority to make provision in their area for the visiting of persons in their homes by visitors, to be called "health visitors", for the purpose of giving advice as to the care of young children, persons suffering from illness and expectant or nursing mothers, and as to the measures necessary to prevent the spread of infection. [751]

(2) The duty of a local health authority under this section may be discharged by making arrangements with voluntary organisations for the employment by those organisations of health visitors or by themselves employing health visitors. [752]

*General effect of section.*—This is one of eight sections (ss. 21–28) imposing duties upon local health authorities, proposals for the carrying out of which they are to submit to the Minister in accordance with s. 20 (1), *ante*. See, generally, Preliminary Note, *ante*. This section will come into force on the appointed day (see s. 30, *post*, and note thereto).

*Local health authorities.*—Local health authorities are county councils and county borough councils (s. 19 (1)).

*Definitions.*—For definitions of "illness" and "voluntary," see s. 79 (1), *post*.

**25. Home nursing.**—It shall be the duty of every local health authority to make provision in their area, whether by making arrangements with voluntary organisations for the employment by those organisations of nurses or by themselves employing nurses, for securing the attendance of nurses on persons who require nursing in their own homes. [753]

*General effect of section.*—This is one of eight sections (ss. 21–28) imposing duties upon local health authorities, proposals for the carrying out of which they are to submit to the Minister in accordance with s. 20 (1), *ante*. See, generally, Preliminary Note, *ante*. This section will come into force on the appointed day (see s. 30, *post*, and note thereto).

*Local health authorities.*—Local health authorities are county councils or county borough councils (s. 19 (1)).

*Definition.*—For definition of "voluntary," see s. 79 (1), *post*.



**26. Vaccination and immunisation.**—(1) Every local health authority shall make arrangements with medical practitioners for the vaccination of persons in the area of the authority against smallpox, and the immunisation of such persons against diphtheria. [754]

(2) Any local health authority may with the approval of the Minister, and if directed by the Minister shall, make similar arrangements for vaccination or immunisation against any other disease. [755]

(3) In making arrangements under this section a local health authority shall give every medical practitioner providing general medical services in their area under Part IV of this Act an opportunity to provide services under this section. [756]

(4) The Minister may, either directly or by entering into arrangements with such persons as he thinks fit, supply free of charge to local health authorities and medical practitioners providing services under this section, vaccines, sera or other preparations for vaccinating or immunising persons against any disease. [757]

(5) The Vaccination Acts, 1867 to 1907, shall cease to have effect. [758]

*General effect of section.*—This is one of eight sections (ss. 21–28) imposing duties upon local health authorities, proposals for the carrying out of which they are to submit to the Minister in accordance with s. 20 (1), *ante*. See, generally, Preliminary Note, *ante*. This section will come into force on the appointed day (see s. 30, *post*, and note thereto).

*The Minister.*—The Minister of Health (s. 1 (1)).

*Local health authorities.*—Local health authorities are county councils or county borough councils (s. 19 (1)).

*Definition.*—For definition of “medical practitioner,” see s. 79 (1), *post*.

*The Vaccination Acts, 1867 to 1907.*—The Vaccination Acts, 1867 to 1907, are the Vaccination Act, 1867 (13 Halsbury's Statutes 609); the Vaccination Act, 1871 (*ibid.* 618); the Vaccination Act, 1874 (*ibid.* 623); the Vaccination Act, 1898 (*ibid.* 875); and the Vaccination Act, 1907 (*ibid.* 910). By s. 76 and Sched. X, Part II, *post*, these Acts are repealed as from the appointed day.

**27. Ambulance services.**—(1) It shall be the duty of every local health authority to make provision for securing that ambulances and other means of transport are available, where necessary, for the conveyance of persons suffering from illness or mental defectiveness or expectant or nursing mothers from places in their area to places in or outside their area. [759]

(2) A local health authority may carry out their duty under this section either by themselves providing the necessary ambulances and other means of transport and the necessary staff therefor or by making arrangements with voluntary organisations or other persons for the provision by them of such ambulances, transport and staff. [760]

*General effect of section.*—This is one of eight sections (ss. 21–28) imposing duties upon local health authorities, proposals for the carrying out of which they are to submit to the Minister in accordance with s. 20 (1), *ante*. See, generally, Preliminary Note, *ante*. This section will come into force on the appointed day (see s. 30, *post*, and note thereto).

*Local health authorities.*—Local health authorities are county councils and county borough councils (s. 19 (1)).

*Definitions.*—For the definitions of “illness” and “voluntary,” see s. 79 (1), *post*.

**28. Prevention of illness, care and after-care.**—(1) A local health authority may with the approval of the Minister, and to such extent as the Minister may direct shall, make arrangements for the purpose of the prevention of illness, the care of persons suffering from illness or mental defectiveness, or the after-care of such persons, but no such arrangements shall provide for the payment of money to such persons, except in so far as they may provide for the remuneration of such persons engaged in suitable work in accordance with the arrangements. [761]

(2) A local health authority may, with the approval of the Minister, recover from persons availing themselves of the services provided under this section such charges (if any) as the authority consider reasonable, having regard to the means of those persons. [762]

(3) A local health authority may, with the approval of the Minister, contribute to any voluntary organisation formed for any such purpose as aforesaid. [763]

*General effect of section.*—This is one of eight sections (ss. 21–28) imposing duties upon local health authorities, proposals for the carrying out of which they are to submit to the Minister in accordance with s. 20 (1), *ante*. See, generally, Preliminary Note, *ante*. This section will come into force on the appointed day (see s. 30, *post*, and note thereto).

*The Minister.*—The Minister of Health (s. 1 (1)).

*Local health authorities.*—Local health authorities are county councils and county borough councils (s. 19 (1)).

*Definitions.*—For definitions of “illness” and “voluntary,” see s. 79 (1), *post*.

*Recovery of charges.*—As to the recovery of charges by local health authorities, see s. 71, *post*. Normally no charges may be made for services provided under the Act (s. 1 (2)).

**29. Domestic help.**—(1) A local health authority may make such arrangements as the Minister may approve for providing domestic help for households where such help is required owing to the presence of any person who is ill, lying-in, an expectant mother, mentally defective, aged, or a child not over compulsory school age within the meaning of the Education Act, 1944. [764]

(2) A local health authority may, with the approval of the Minister, recover from persons availing themselves of the domestic help so provided such charges (if any) as the authority consider reasonable, having regard to the means of those persons. [765]

*The Minister.*—The Minister of Health (s. 1 (1)).

*Local health authorities.*—Local health authorities are county councils and county borough councils (s. 19 (1)).

*Education Act, 1944.*—37 Halsbury's Statutes 123. “Compulsory school age” is defined by s. 35 thereof (*ibid*. 165).

*Operative date of section.*—This section will come into force on the appointed day (see s. 30, *post*, and note thereto).

*Recovery of charges.*—As to the recovery of charges by local health authorities, see s. 71, *post*. Normally no charges may be made for services provided under the Act (s. 1 (2)).

**30. Appointed day for the purposes of Part III.**—This Part of this Act, except sections nineteen and twenty, shall come into force on the appointed day. [766]

*Appointed day.*—See s. 79 (1), *post*. Though no day has been appointed at the time of going to press, the Prime Minister said in the House of Commons on June 9, 1947, that it was hoped to bring the Act, with the National Insurance schemes, into full operation by July 5, 1948 (see 438 H. of C. Official Report 705).

## PART IV

### GENERAL MEDICAL AND DENTAL SERVICES, PHARMACEUTICAL SERVICES AND SUPPLEMENTARY OPHTHALMIC SERVICES

#### *Administration*

**31. Executive Councils.**—(1) There shall be constituted in accordance with the provisions of the Fifth Schedule to this Act for the area of every local health authority, a council, to be called the Executive Council, for the purpose of exercising functions with respect to the provision of services under this Part of this Act, and the supplementary provisions contained in the said Schedule shall apply to every such Council. [767]

(2) Where it appears to the Minister, either before or after Executive Councils have been constituted under the last foregoing subsection, to be expedient in the interests of the efficiency of the services provided under this Part of this Act that a single Executive Council should be constituted for the area of two or more local health authorities, he may by order provide for the constitution of such a Council, and the Fifth Schedule to this Act shall apply to the constitution thereof subject to the modification that the

members of the Council to be appointed by the local health authority shall be appointed by the several authorities concerned in such proportions as the order may provide.

Where any such order is revoked by a subsequent order of the Minister, then, subject to any new order made under this subsection, separate Executive Councils shall be constituted under this section for the areas of the local health authorities concerned. [768]

(3) Where it appears to the Minister that owing to the special circumstances of the area for which an Executive Council has been or is to be constituted under this section it is desirable to vary the constitution of that Council, he may by order provide for such variation :

Provided that, before making any such order with respect to a Council already constituted, he shall consult with that Council, and in making any order under this subsection he shall have regard to the desirability of maintaining, so far as practicable, the same numerical proportion as between the members appointed by the several authorities and bodies mentioned in the Fifth Schedule to this Act. [769]

(4) Where it appears to the Minister to be expedient in the interests of the efficiency of the services provided under this Part of this Act that a joint committee should be established for the areas of two or more Executive Councils for the purpose of exercising some but not all of the functions of the Executive Council, the Minister may by order constitute such a joint committee and provide for the exercise by that committee of such of the said functions as may be specified in the order, and for the payment of the expenses of the committee by the constituent councils, and for the application, with such modifications as may be so specified, to that committee of any provisions of this Act relating to those functions, and for any of the matters for which, in relation to an Executive Council, regulations made under the Fifth Schedule to this Act may provide. [770]

(5) Any order made under this section, and any order revoking such an order, may contain such supplementary and incidental provisions as appear to the Minister to be necessary or expedient, including provision for the transfer of officers and their compensation by the Minister and the transfer of property and liabilities. [771]

*Executive Councils.*—As to the constitution thereof, see the National Health Service (Executive Councils) Regulations, 1947 (S. R. & O., 1947, No. 889).

*Sub-s. (2).*—See, for example, S. R. & O., 1947, No. 646, constituting a single Executive Council for Leicestershire and Rutland. For Newport and Monmouthshire, see S. R. & O., 1947, No. 930 ; for Denbighshire and Flintshire, see S. R. & O., 1947, No. 1180.

*Regulations and Orders.*—As to regulations and orders, see s. 75, *post*.

**32. Local representative committees.**—(1) Where the Minister is satisfied that a local committee formed for the area of any Executive Council is representative—

- (a) of the medical practitioners of that area, or
- (b) of the persons providing pharmaceutical services in that area, or
- (c) of the dental practitioners of that area,

the Minister may recognise that committee, and any committee so recognised shall be called the Local Medical Committee, the Local Pharmaceutical Committee or the Local Dental Committee, as the case may be, for the area concerned. [772]

(2) The Executive Council shall in exercising their functions under this Part of this Act consult with the said Committees on such occasions and to such extent as may be prescribed, and the said Committees shall exercise such other functions as may be prescribed. [773]

*General effect of section.*—See Preliminary Note, *ante*.

*The Minister.*—The Minister of Health (s. 1 (1)).

*Definitions.*—For definitions of “dental practitioner,” “medical practitioner” and “prescribed,” see s. 79 (1), *post*.

*Appointment of members of Executive Council by local representative committees.*—The Local Medical, Dental and Pharmaceutical Committees are to appoint, respectively, seven members, three members and two members of the Executive Council of their area (Sched. V, para. 1). The Minister, however, will make any such appointment which, within a period determined by him, they fail to make (*ibid.* para. 4).

### *General Medical Services*

**33. Arrangements for general medical services.**—(1) It shall be the duty of every Executive Council in accordance with regulations to make as respects their area arrangements with medical practitioners for the provision by them as from the appointed day, whether at a health centre or otherwise, of personal medical services for all persons in the area who wish to take advantage of the arrangements, and the services provided in accordance with the arrangements are in this Act referred to as “general medical services.” [774]

(2) Regulations may make provision for defining the personal medical services to be provided and for securing that the arrangements will be such that all persons availing themselves of those services will receive adequate personal care and attendance, and the regulations shall include provision—

- (a) for the preparation and publication of lists of medical practitioners who undertake to provide general medical services ;
- (b) for conferring a right on any person to choose, in accordance with the prescribed procedure, the medical practitioner by whom he is to be attended, subject to the consent of the practitioner so chosen and to any prescribed limit on the number of patients to be accepted by any practitioner ;
- (c) for the distribution among medical practitioners whose names are on the lists of any persons who have indicated a wish to obtain general medical services but who have not made any choice of medical practitioner or have been refused by the practitioner chosen ;
- (d) for the issue to patients or their personal representatives by medical practitioners providing such services as aforesaid of certificates reasonably required by them under or for the purposes of any enactment. [775]

*Appointed day.*—See s. 79 (1), *post*. Though no day has been appointed at the time of going to press, the Prime Minister said in the House of Commons on June 9, 1947, that it was hoped to bring the Act, with the National Insurance schemes, into full operation by July 5, 1948 (see 438 H. of C. Official Report 705).

*Definitions.*—For definitions of “medical,” “medical practitioner,” “patient,” “prescribed” and “regulations,” see s. 79 (1), *post*.

*Regulations.*—As to regulations, see s. 75, *post*.

*Provision of facilities at health centres.*—As to the provision by local health authorities of facilities at health centres for the provision of general medical services, see s. 21 (1), *ante*.

**34. Distribution of medical practitioners providing services.**—(1) Subject to the provisions of this Part of this Act relating to the disqualification of practitioners, every medical practitioner engaged in medical practice (otherwise than as a paid assistant) who wishes to provide general medical services shall be entitled, on making an application at any time before the appointed day in the prescribed manner to the Executive Council for any area in which he is practising, to be included in the list of medical practitioners undertaking to provide general medical services for persons in that area. [776]

(2) With a view to securing that the number of medical practitioners undertaking to provide general medical services in the areas of different Executive Councils or in different parts of those areas is adequate, the

Minister shall constitute a committee, to be called the Medical Practices Committee, for the purpose of considering and determining applications—

- (a) made before the appointed day by a medical practitioner who is not entitled under the last foregoing subsection to be included in the list of an Executive Council, for inclusion in that list ; and
- (b) made on or after the appointed day for inclusion in any such list kept by an Executive Council for any area ;

and all such applications made in the prescribed manner to an Executive Council shall be referred by that Council to the said Committee, and any medical practitioner whose application is granted by the said Committee shall, subject to the provisions of this Part of this Act relating to the disqualification of practitioners, be entitled to be included in the list. [777]

(3) The Medical Practices Committee may refuse any such application on the ground that the number of medical practitioners undertaking to provide general medical services in the area or part of an area concerned is already adequate, and, if in the opinion of the Committee additional practitioners are required for any area or part but the number of persons who have made applications exceeds the number required, the Committee shall select the persons whose applications are to be granted and shall refuse the other applications.

Before selecting any persons under this subsection the Medical Practices Committee shall consult the Executive Council concerned, and that Council shall, if a Local Medical Committee has been formed for the area of the Council and recognised under the last but one foregoing section, consult that Committee before expressing their views on the persons to be selected. [778]

(4) Except as provided by the last foregoing subsection, the Medical Practices Committee shall not refuse any such application, but the Committee may grant an application subject to conditions excluding the provision of general medical services by the applicant in such part or parts of the area of the Executive Council as the Committee may specify. [779]

(5) The Medical Practices Committee shall be constituted in accordance with the Sixth Schedule to this Act and the provisions of that Schedule shall apply to that Committee. [780]

(6) A medical practitioner who has made such an application as aforesaid which has been refused or has been granted subject to the said conditions, may appeal to the Minister, and the Minister may, on any such appeal, direct the said Committee to grant the application either unconditionally or subject to such conditions as the Minister may specify. [781]

(7) Where the Medical Practices Committee select persons from a number of applicants, the persons selected shall not, during the period for bringing an appeal to the Minister or pending the determination of any such appeal, be included in the list in question, and on any such appeal the Minister may, if he grants the appeal, direct either that the application shall be granted in addition to the applications already granted or that it shall be granted instead of such one of those applications as the Minister may specify :

Provided that in the latter case he shall make the other applicant a party to the appeal, and no further appeal shall be brought by that applicant in respect of the application in question. [782]

(8) Regulations shall make provision—

- (a) for requiring Executive Councils to make reports, at such times and in such manner as may be prescribed, to the Medical Practices Committee as to the number of medical practitioners required to meet the reasonable needs of their area and the different parts

thereof and as to the occurrence of any vacancies on the lists of medical practitioners kept by them under this Part of this Act and as to the need for filling such vacancies ;

- (b) for prescribing the procedure for the determination of applications by the Medical Practices Committee and for the making and determination of appeals to the Minister under this section, and for requiring Executive Councils and applicants to be informed of the decisions of the Committee and the Minister ; [783]

(9) The Medical Practices Committee shall, in a case where persons have to be selected from a number of applicants, and the Minister shall, on an appeal in any such case, have regard to any desire expressed by any applicant to practise with other medical practitioners already providing general medical services in the area or part of an area concerned, and of any desire expressed by such other medical practitioners to take any applicant into practice with them, and shall have special regard to the matters aforesaid in cases where an applicant is related to any such other medical practitioner. [784]

*General effect of section.*—See Preliminary Note, *ante*.

*Appointed day.*—See s. 79 (1), *post*. Though no day has been appointed at the time of going to press, the Prime Minister said in the House of Commons on June 9, 1947, that it was hoped to bring the Act, with the National Insurance schemes, into full operation by July 5, 1948 (see 738 H. of C. Official Report 705).

*Definitions.*—For definitions of “ medical practitioner,” “ prescribed ” and “ regulations,” see s. 79 (1), *post*.

*Provisions as to disqualification of practitioners.*—As to the disqualification of practitioners, see s. 42, *post*.

**35. Prohibition of sale of medical practices.**—(1) Where the name of any medical practitioner is, on the appointed day or at any time thereafter, entered on any list of medical practitioners undertaking to provide general medical services, it shall be unlawful subsequently to sell the goodwill or any part of the goodwill of the medical practice of that medical practitioner :

Provided that, where a medical practitioner, whose name has ceased to be entered on any such list as aforesaid, practises in the area of an Executive Council on whose list his name has never been entered, this subsection shall not render unlawful the sale of the goodwill or any part of the goodwill of his practice in that area. [785]

(2) Any person who sells or buys the goodwill or any part of the goodwill of a medical practice which it is unlawful to sell by virtue of the last foregoing subsection, shall be guilty of an offence and shall be liable on conviction on indictment to a fine not exceeding—

(a) such amount as will in the opinion of the court secure that he derives no benefit from the offence ; and

(b) the further amount of five hundred pounds ;

or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment. [786]

(3) Where any medical practitioner or the personal representative of any medical practitioner knowingly sells or lets premises previously used by that practitioner for the purposes of his practice to another medical practitioner, or in any other way disposes or procures the disposition of the premises, whether by a single transaction or a series of transactions, with a view to enabling another practitioner to use the premises for the purposes of his practice, and the consideration for the sale, letting or other disposition is substantially in excess of the consideration which might reasonably have been expected if the premises had not previously been used for the purpose of a medical practice, the sale, letting or other disposition of the premises shall be deemed for the purposes of this section to be a sale by the first



medical practitioner or his personal representative of the goodwill or part of the goodwill of the practice of that practitioner to that other practitioner.

Where a medical practitioner or his personal representative sells, lets, or disposes or procures the disposition of, any premises together with any other property, the court shall, for the purposes of this subsection, make such apportionment of the consideration as it thinks just. [787]

(4) Where in pursuance of any partnership agreement between medical practitioners—

- (a) any valuable consideration, other than the performance of services in the partnership business, is given by a partner or proposed partner as consideration for his being taken into partnership ;
- (b) any valuable consideration is given to a partner, on or in contemplation of his retirement or of his acceptance of a reduced share of the partnership profits, or to the personal representative of a partner on his death, not being a payment in respect of that partner's share in past earnings of the partnership or in any partnership assets or any other payment required to be made to him as the result of the final settlement of accounts, as between him and the other partners, in respect of past transactions of the partnership ; or
- (c) services are performed by any partner for a consideration substantially less than those services might reasonably have been expected to be worth having regard to the circumstances at the time when the agreement was made ;

there shall be deemed for the purposes of this section to have been a sale of the goodwill or part of the goodwill of the practice of any partner to whom or to whose personal representative the consideration or any part thereof is given or, as the case may be, for whose benefit the services are performed, to the partner or each of the partners by or on whose behalf the consideration or any part thereof was given or, as the case may be, the partner who performed the services, and the said sale shall be deemed for the purposes of this section to have been effected—

- (i) in a case to which paragraph (a) or paragraph (b) applies, at the time when the consideration was given or, if the consideration was not all given at the same time, at the time when the first part thereof was given ; or
- (ii) in a case to which paragraph (c) applies, at the time when the agreement was made. [788]

(5) Where any medical practitioner performs services as an assistant to another medical practitioner for a remuneration substantially less than those services might reasonably have been expected to be worth having regard to the circumstances at the time when the remuneration was fixed, and subsequently succeeds, whether as the result of a partnership agreement or otherwise, to the practice or any part of the practice of the second practitioner, there shall be deemed for the purposes of this section to have been a sale of the goodwill or part of the goodwill of the said practice by the second practitioner to the first practitioner, unless it is shown that the said remuneration of the first practitioner was not fixed in contemplation of his succeeding to the said practice or any part thereof, and the said sale shall be deemed for the purposes of this section to have been effected at the time when the remuneration was fixed. [789]

(6) For the purposes of this section—

- (a) if a medical practitioner or the personal representative of a medical practitioner agrees, for valuable consideration, to do or refrain from doing any act, or allow any act to be done, for the purpose of facilitating the succession of another medical practitioner to



the practice or any part of the practice of the first practitioner, the transaction shall be deemed to be a sale of the goodwill or part of the goodwill of that practice by the first practitioner or his personal representative to the second practitioner ;

- (b) if any medical practitioner or any person acting on his behalf gives any valuable consideration to another medical practitioner or the personal representative of another medical practitioner, and the first medical practitioner succeeds or has succeeded, whether before or after the transaction aforesaid, to the practice or any part of the practice of the second practitioner, the transaction shall be deemed to be a sale of the goodwill or part of the goodwill of the practice of the second practitioner by him or by his personal representative to the first practitioner, unless it is shown that no part of the consideration was given in respect of the said goodwill or part thereof :

Provided that this subsection shall not apply to anything done in relation to the acquisition of premises for the purposes of a medical practice, or in pursuance of a partnership agreement, or to the performance of services as an assistant to a medical practitioner. [790]

(7) In determining for the purposes of this section the consideration given in respect of any transaction, the court shall have regard to any other transaction appearing to the court to be associated with the first transaction, and shall estimate the total consideration given in respect of both or all the transactions and shall apportion it between those transactions in such manner as it thinks just. [791]

(8) Where any consideration is, with the knowledge and consent of a medical practitioner or his personal representative, given to any other person, and it appears to the court that the medical practitioner or, if he has died, his estate or some person beneficially interested in his estate derives a substantial benefit from the giving of the consideration, the consideration shall be deemed for the purposes of this section to have been given to the medical practitioner or his personal representative, as the case may be. [792]

(9) Any medical practitioner or the personal representative of any medical practitioner may apply to the Medical Practices Committee for their opinion as to whether a proposed transaction or series of transactions involves the sale of the goodwill or any part of the goodwill of a medical practice which it is unlawful to sell by virtue of this section, and the Committee shall consider any such application and, if they are satisfied that the transaction or series of transactions does not involve the giving of valuable consideration in respect of the goodwill or any part of the goodwill of such a medical practice, they shall issue to the applicant a certificate to that effect, which shall be in the prescribed form and shall set out all material circumstances disclosed to the Committee. [793]

(10) Where any person is charged with an offence under this section in respect of any transaction or series of transactions it shall be a defence to the charge to prove that the transaction or series of transactions was certified by the Medical Practices Committee under the last foregoing subsection, and any document purporting to be such a certificate shall be admissible in evidence and shall be deemed to be such a certificate unless the contrary is proved :

Provided that, if it appears to the court that the applicant for any such certificate failed to disclose to the Committee all the material circumstances or made any misrepresentation with respect thereto, it may disregard the certificate and this subsection shall not apply thereto. [794]

(11) A prosecution for an offence under this section shall only be in-

stituted by or with the consent of the Director of Public Prosecutions, and the Medical Practices Committee shall, at the request of the said Director, furnish him with a copy of any certificate issued by them under subsection (9) of this section and with copies of any documents produced to them in connection with the application for that certificate. [795]

(12) For the purposes of this and the next two following sections, references to the goodwill of a medical practice shall, in relation to a medical practitioner practising in partnership, be construed as referring to his share of the goodwill of the partnership practice. [796]

*Appointed day.*—See s. 79 (1), *post*. Though no day has been appointed at the time of going to press, the Prime Minister said in the House of Commons on June 9, 1947, that it was hoped to bring the Act, with the National Insurance schemes, into full operation by July 5, 1948 (see 438 H. of C. Official Report 705).

*Definition.*—For definition of “medical practitioner,” see s. 79 (1), *post*.

**36. Compensation for loss of right to sell a medical practice.**—(1) Every medical practitioner whose name is entered on the appointed day on any list of medical practitioners undertaking to provide general medical services shall be entitled to be paid out of moneys provided by Parliament compensation in accordance with this section in respect of any loss suffered by him by reason that he is or will be unable to sell the goodwill or any part of the goodwill of his practice by virtue of the last foregoing section. [797]

(2) The aggregate amount of the compensation to be paid under this section shall be the appropriate proportion of sixty-six million pounds, exclusive of any sums paid by way of interest :

Provided that, if the aggregate number of medical practitioners included on the appointed day in lists of medical practitioners providing general medical services, or lists of medical practitioners providing services under any provisions in force in Scotland corresponding with the foregoing provisions of this Part of this Act, falls short of seventeen thousand seven hundred, the said sum of sixty-six million pounds shall be reduced by an amount calculated by multiplying the number by which the said aggregate number falls short as aforesaid by one seventeen thousand nine hundredth part of sixty-six million pounds. [798]

(3) Regulations shall—

- (a) prescribe the manner in which and the time within which claims for compensation are to be made, and provide for determining whether any claimant has suffered loss by reason of the matters referred to in subsection (1) of this section and, if so, the extent of that loss ;
- (b) provide for the distribution of the said aggregate amount among the persons who have suffered such loss as aforesaid, having regard to the extent of their respective losses ;
- (c) prescribe the manner in which and the times at which the compensation is to be paid, and secure that, except in such circumstances as may be prescribed, it shall not be paid until the retirement or death of the medical practitioner concerned, whichever first occurs ; and
- (d) provide for paying out of moneys provided by Parliament interest at two and three-quarter per cent. per annum on the amount of the compensation payable to any medical practitioner, in respect of the period from the appointed day until the time when the compensation is paid ;

and before making any regulations under this subsection the Minister shall consult such organisations as may be recognised by him as representing the medical profession. [799]

(4) For the purpose of determining the appropriate proportion of the said sum of sixty-six million pounds—

- (a) the aggregate amount of the losses in respect of which compensation will be payable under this section and under the corresponding provision for Scotland, respectively, shall be calculated in such manner as the Treasury may direct ; and
- (b) the said sum of sixty-six million pounds or, as the case may be, the said sum as reduced in pursuance of the proviso to subsection (2) of this section shall be apportioned as between England and Wales on the one hand and Scotland on the other, having regard to the said respective aggregate losses, and the amount apportioned to England and Wales shall be the appropriate proportion of that sum for the purposes of this section. [800]

*The Minister.*—The Minister of Health (s. 1 (1)).

*Appointed day.*—See s. 79 (1), *post*. Though no day has been appointed at the time of going to press, the Prime Minister said in the House of Commons on June 9, 1947, that it was hoped to bring the Act, with the National Insurance schemes, into full operation by July 5, 1948 (s. 438 H. of C. Official Report 705).

*Definitions.*—For the meanings of “medical practitioner,” “prescribed” and “regulations,” see s. 79 (1), *post*. For construction of “goodwill,” see s. 35 (12), *ante*.

*Regulations.*—As to regulations, see s. 75, *post*.

**37. Practitioners dying or retiring before appointed day.**—Where the Medical Practices Committee are satisfied, on the application of a medical practitioner or his personal representative, that—

- (a) the practitioner has retired from practice or died during the period between the passing of this Act and the appointed day ; and
- (b) the goodwill of his practice has not been sold in whole or in part before the appointed day ;

the last two foregoing sections shall apply in relation to that medical practitioner and to his practice as if his name were entered on the appointed day on a list of medical practitioners undertaking to provide general medical services. [801]

*Appointed day.*—See s. 79 (1), *post*. Though no day has been appointed at the time of going to press, the Prime Minister said in the House of Commons on June 9, 1947, that it was hoped to bring the Act, with the National Insurance schemes, into full operation by July 5, 1948 (see 438 H. of C. Official Report 705).

*Passing of the Act.*—The passing of the Act was on November 6, 1946.

*Definitions.*—For definition of “medical practitioner,” see s. 79 (1), *post* ; for construction of “goodwill,” see s. 35 (12), *ante*.

### *Pharmaceutical Services, General Dental Services and Supplementary Ophthalmic Services*

**38. Arrangements for pharmaceutical services.**—(1) It shall be the duty of every Executive Council in accordance with regulations to make as respects their area arrangements for the supply as from the appointed day, whether at a health centre or otherwise, of proper and sufficient drugs and medicines and prescribed appliances to all persons in the area who are receiving general medical services, and of prescribed drugs and medicines to all persons in the area who are receiving general dental services, and the services provided in accordance with the arrangements are in this Act referred to as “pharmaceutical services”. [802]

(2) Regulations may make provision for securing that arrangements made under this section will be such as to enable any person receiving general medical services to obtain proper and sufficient drugs and medicines and prescribed appliances, if ordered by the medical practitioner rendering those

services, from any persons with whom arrangements have been made under this section, and to enable any person receiving general dental services to obtain prescribed drugs and medicines, if ordered by the dental practitioner rendering those services, from any persons with whom such arrangements have been made, and the regulations shall include provision—

- (a) for the preparation and publication of lists of persons who undertake to provide pharmaceutical services ; and
- (b) for conferring a right, subject to the provisions of this Part of this Act relating to the disqualification of practitioners, on any person who wishes to be included in any such list to be so included for the purpose of supplying such drugs, medicines and appliances as that person is entitled by law to sell. [803]

*Appointed day.*—See s. 79 (1), *post*. Though no day has been appointed at the time of going to press, the Prime Minister said in the House of Commons on June 9, 1947, that it was hoped to bring the Act, with the National Insurance schemes, into full operation by July 5, 1948 (see 438 H. of C. Official Report 705).

*Definitions.*—For definitions of “dental practitioner,” “medical practitioner,” “medicine,” “prescribed,” and “regulations,” see s. 79 (1), *post*.

*Regulations.*—As to regulations, see s. 75, *post*.

*Provision of facilities at health centres.*—As to the provision by local health authorities of facilities at health centres for providing pharmaceutical services, see s. 21 (1), *ante*.

*Disqualification of practitioners.*—As to disqualification, see s. 42, *post*.

*General medical and dental services.*—As to general medical services, see s. 33, *ante* ; as to general dental services, see s. 40, *infra*.

**39. Persons authorised to provide pharmaceutical services.**—(1) Except as may be provided by regulations, no arrangement shall be made by the Executive Council with a medical practitioner or dental practitioner under which he is required or agrees to provide pharmaceutical services to any person to whom he is rendering general medical services or general dental services. [804]

(2) Except as may be provided by regulations, no arrangements for the dispensing of medicines shall be made with persons other than persons who are registered pharmacists or are authorised sellers of poisons within the meaning of the Pharmacy and Poisons Act, 1933, and who undertake that all medicines supplied by them under the arrangements made under this Part of this Act shall be dispensed either by or under the direct supervision of a registered pharmacist or by a person who for three years immediately before the sixteenth day of December, nineteen hundred and eleven, acted as a dispenser to a medical practitioner or a public institution. [805]

(3) Nothing in this Act shall interfere with the rights and privileges conferred by the Apothecaries Act, 1815, upon any person qualified under that Act to act as an assistant to any apothecary in compounding and dispensing medicines. [806]

*General effect of section.*—See Preliminary Note, *ante*.

*General medical, etc., services.*—As to general medical services, see s. 33, *ante* ; as to pharmaceutical services, see s. 38, *ante* ; as to general dental services, see s. 40, *post*.

*Definitions.*—For definitions of “dental practitioner,” “medical practitioner,” “medicine,” and “regulations,” see s. 79 (1), *post*.

*Regulations.*—As to regulations, see s. 75, *post*. Regulations will be made permitting Executive Councils to arrange for the provision of pharmaceutical services by practitioners in rural areas (*per* the Minister of Health, H. of C. Official Report, S.C.C., June 25, 1946, col. 738).

*Pharmacy and Poisons Act, 1933.*—26 Halsbury's Statutes 502. Pharmacists and authorised sellers of poisons are defined by s. 29 thereof, *ibid*. 583.

*Apothecaries Act, 1815.*—11 Halsbury's Statutes 647.

**40. Arrangements for general dental services.**—(1) It shall be the duty of every Executive Council in accordance with regulations to make as respects their area arrangements with dental practitioners under which, as from the appointed day, any person in the area for whom a dental practitioner

undertakes in accordance with the arrangements to provide dental treatment and appliances, whether at a health centre or otherwise, shall receive such treatment and appliances, and the services provided in accordance with the arrangements are in this Act referred to as "general dental services". [807]

(2) Regulations may make provision as to the arrangements to be made under the last foregoing subsection, and shall include provision—

- (a) for the preparation and publication of lists of dental practitioners who undertake to provide general dental services ;
- (b) for conferring a right, subject to the provisions of this Part of this Act relating to the disqualification of practitioners, on any dental practitioner, who wishes to be included in any such list, to be so included ;
- (c) for conferring a right on any person to choose in accordance with the prescribed procedure the dental practitioner from whom he is to receive general dental services, subject to the consent of the practitioner so chosen ;
- (d) for constituting a Board, to be called the Dental Estimates Board, of whom the chairman and a majority of the members shall be dental practitioners, for the purpose of carrying out such duties as may be prescribed with respect to the approval of estimates of dental treatment and appliances ;
- (e) for providing, in relation to the Dental Estimates Board, for any of the matters for which, in relation to an Executive Council, provision is or may be made by or under the supplementary provisions of the Fifth Schedule to this Act, and also for the remuneration of members of the Board. [808]

*Appointed day.*—See s. 79 (1), *post*. Though no day has been appointed at the time of going to press, the Prime Minister said in the House of Commons on June 9, 1947, that it was hoped to bring the Act, with the National Insurance schemes, into full operation by July 5, 1948 (see 438 H. of C. Official Report 705).

*Definitions.*—For definitions of "dental practitioner," "prescribed" and "regulations," see s. 79 (1), *post*.

*Disqualification of practitioners.*—As to disqualification, see s. 42, *post*.

*Regulations.*—As to regulations, see s. 75, *post*. Regulations to be made under sub-s. (2) (d) will provide for the approval of estimates in cases where the treatment recommended is substantial or expensive, but no such approval will be required where the treatment involves only minor work (*per* the Minister of Health in committee : H. of C. Official Report, S.C.C., June 25, 1946, col. 740).

*Provision of facilities at health centres.*—As to the provision by local health authorities of facilities at health centres for providing general dental services, see s. 21 (1), *ante*.

*Charges.*—Normally no charges may be made for services provided under the Act (s. 1 (2)), but s. 44 (1), *post*, provides for charges being made where dental appliances are supplied as part of the general dental services, which are more expensive than the prescribed type or the replacement or repair of which is necessitated by lack of care, or in cases where special dental treatment is given.

**41. Supplementary ophthalmic services.**—(1) Without prejudice to the duty of the Minister under Part II of this Act to provide, as part of the hospital and specialist services, services in connection with the diagnosis and treatment of disease or defect of the eyes and the supply of optical appliances, it shall be the duty of every Executive Council to make as respects their area, in accordance with regulations, arrangements with medical practitioners having the prescribed qualifications, ophthalmic opticians and dispensing opticians for securing, as from the appointed day, the testing of sight by such medical practitioners and ophthalmic opticians and the supply by ophthalmic opticians and dispensing opticians of optical appliances, and the services provided in accordance with the arrangements are in this Act referred to as "supplementary ophthalmic services". [809]

(2) The functions of an Executive Council under this section shall, to

such extent as may be prescribed, be exercised on behalf of the Council by a committee to be called the "Ophthalmic Services Committee" constituted for the area of the Council in accordance with regulations so as to include members appointed by the Executive Council and by medical practitioners having the prescribed qualifications, ophthalmic opticians and dispensing opticians, respectively, and the regulations may make provision in relation to the Ophthalmic Services Committee, for any of the matters for which, in relation to an Executive Council, provision is or may be made by or under the supplementary provisions of the Fifth Schedule to this Act. [810]

(3) Regulations may make provision as to the arrangements to be made under this section, and shall include provision—

- (a) for the preparation and publication of lists of medical practitioners, ophthalmic opticians and dispensing opticians, respectively, who undertake to provide supplementary ophthalmic services;
- (b) for conferring a right, subject to the provisions of this Part of this Act relating to the disqualification of practitioners, on any medical practitioner having the prescribed qualifications, ophthalmic optician or dispensing optician who wishes to be included in the appropriate list, to be so included;
- (c) for conferring on any person a right to choose in accordance with the prescribed procedure the medical practitioner or ophthalmic optician by whom his sight is to be tested or from whom any prescription for the supply of optical appliances is to be obtained and the ophthalmic or dispensing optician who is to supply the appliances. [811]

(4) Where the Minister is satisfied that adequate ophthalmic services are available in the area of any Executive Council through the hospital and specialist services provided under Part II of this Act, he may by order direct that this section shall cease to apply to that area, and this section shall thereupon cease to apply as from a date specified in the order; and any such order may contain such consequential and incidental provisions as the Minister considers necessary or expedient. [812]

*Ophthalmic Services Committees.*—See the National Health Service (Executive Councils) Regulations, 1947 (S. R. & O., 1947, No. 889).

*Appointed day.*—See s. 79 (1), *post*. Though no day has been appointed at the time of going to press, the Prime Minister said in the House of Commons on June 9, 1947, that it was hoped to bring the Act, with the National Insurance schemes, into full operation by July 5, 1948 (see 438 H. of C. Official Report 705).

*Definitions.*—For definitions of "dispensing optician," "medical practitioner," "ophthalmic optician," "prescribed" and "regulations," see s. 79 (1), *post*.

*Disqualification of practitioners.*—As to disqualification, see s. 42, *post*.

*Charges.*—Normally no charges may be made for services provided under the Act (s. 1 (2)), but s. 44 (1), *post*, provides for charges being made where optical appliances are supplied as part of the supplementary ophthalmic services, which are more expensive than the prescribed type or the replacement or repair of which is necessitated by lack of care.

### *Supplementary Provisions*

**42. Disqualification of practitioners.**—(1) There shall be constituted in accordance with the provisions of the Seventh Schedule to this Act, a tribunal, in this section referred to as "the Tribunal", for the purpose of inquiring into cases where representations are made in the prescribed manner to the Tribunal by an Executive Council or any other person that the continued inclusion of any person in any list prepared under this Part of this Act—

- (a) of medical practitioners undertaking to provide general medical services;
- (b) of persons undertaking to provide pharmaceutical services;
- (c) of dental practitioners undertaking to provide general dental services;



- (d) of medical practitioners undertaking to provide supplementary ophthalmic services ;
- (e) of ophthalmic opticians undertaking to provide supplementary ophthalmic services ; or
- (f) of dispensing opticians undertaking to provide supplementary ophthalmic services ;

would be prejudicial to the efficiency of the services in question. [813]

(2) The supplementary provisions contained in the said Seventh Schedule shall apply in relation to the Tribunal. [814]

(3) The Tribunal, on receiving representations from an Executive Council shall, and in any other case may, inquire into the case and, if they are of opinion that the continued inclusion of the said person in any list to which the representations relate would be prejudicial to the efficiency of the said services, shall direct that his name be removed from that list, and may also, if they think fit, direct that his name be removed from, or not be included in, any corresponding list kept by any other Executive Council under this Part of this Act. [815]

(4) An appeal shall lie to the Minister from any direction of the Tribunal under the last foregoing subsection, and the Minister may confirm or revoke that direction. [816]

(5) Where the Tribunal direct that the name of any person be removed from or not included in any list or lists, the Executive Council or Councils concerned shall—

- (a) if no appeal is brought, at the end of the period for bringing an appeal ; or
- (b) if an appeal is brought and the decision of the Tribunal is confirmed by the Minister, on receiving notice of the Minister's decision,

remove the name of the person concerned from the list or lists in question, and, until such time as the Tribunal or the Minister direct to the contrary, that person shall be disqualified for inclusion in any list to which the direction relates. [817]

(6) If under any provisions in force in Scotland corresponding to the provisions of this Part of this Act a person is for the time being disqualified for inclusion in all lists prepared under those provisions of persons undertaking to provide services of one or more of the kinds specified in subsection (1) of this section, that person shall, so long as that disqualification is in force, be disqualified for inclusion in any list prepared under this Part of this Act of persons undertaking to provide services of that kind or of those kinds, and the name of that person shall be removed from every such list in which his name is included. [818]

(7) Regulations shall make provision—

- (a) for prescribing the procedure for the holding of inquiries by the Tribunal and for the making and determining of appeals to the Minister under this section and, in particular, for securing that any person who is the subject of an inquiry by the Tribunal under this section shall have an opportunity
  - (i) of appearing, either in person or by counsel or solicitor or such other representative as may be prescribed, before the Tribunal and, in the case of an appeal, before a person appointed by the Minister ; and
  - (ii) of being heard by the Tribunal or the person so appointed and of calling witnesses and producing other evidence on his behalf ;



and that the hearing, whether by the Tribunal or the person appointed as aforesaid, shall be in public if the person who is the subject of the inquiry so requests ;

- (b) for conferring on the Tribunal and on any person so appointed by the Minister such powers as the Minister considers necessary, and for that purpose to apply, with any necessary modifications, any of the provisions of section two hundred and ninety of the Local Government Act, 1933 ; and
  - (c) for the publication of the decisions of the Tribunal and the Minister under this section and of the imposition and removal of any disqualification imposed by virtue of the last foregoing subsection. [819]
- (8) Where, before the appointed day—
- (a) the name of any person has after inquiry been removed from any list kept by an insurance committee under the National Health Insurance Act, 1936, or any enactment repealed by that Act, of medical practitioners ;
  - (b) an application by any person for inclusion in a list of persons supplying drugs, medicines and appliances under the National Health Insurance Act, 1936, or any enactment repealed by that Act, has after inquiry been refused, or the name of any person has after inquiry been removed from any such list ;
  - (c) any dental practitioner has been declared under regulations made under the National Health Insurance Act, 1936, or any enactment repealed by that Act, to be permanently unsuitable for service in connection with the provision of dental benefit within the meaning of those regulations ;
  - (d) an application by any person for inclusion in a list of persons recognised for the purpose of the provision of optical appliances under the National Health Insurance (Additional Benefits) Regulations, 1930, has been rejected, or the name of any person has after inquiry been removed from any such list ;

and the name of that person has not before the appointed day been included in or restored to the list or, in the case of a dental practitioner, the declaration of unsuitability has not before the appointed day been withdrawn, that person shall, until such time as the Tribunal or the Minister directs to the contrary, be disqualified for inclusion in the appropriate list of those referred to in subsection (1) of this section. [820]

*General effect of section.*—See Preliminary Note, ante.

*The Minister.*—The Minister of Health (s. 1 (1)).

*Definitions.*—For definitions of “dental practitioner,” “dispensing optician,” “medical practitioner,” “ophthalmic optician,” “prescribed” and “regulations,” see s. 79 (1), *post*.

*Regulations.*—As to regulations, see s. 75, *post*.

*Local Government Act, 1933, s. 290.*—26 Halsbury's Statutes 459.

*National Health Insurance Act, 1936.*—29 Halsbury's Statutes 1064.

**43. Powers of Minister where services are inadequate.**—If the Minister is satisfied, after such inquiry as he may think fit, as respects any area or part of an area of an Executive Council that the persons included in any list prepared under this Part of this Act—

- (a) of medical practitioners undertaking to provide general medical services ;
  - (b) of persons undertaking to provide pharmaceutical services ; or
  - (c) of dental practitioners undertaking to provide general dental services,
- are not such as to secure the adequate provision of the services in question in that area or part, or that for any other reason any considerable number

of persons in any such area or part are not receiving satisfactory services under the arrangements in force under this Part of this Act, he may authorise the Executive Council to make such other arrangements as he may approve, or may himself make other arrangements, and may dispense with any of the requirements of regulations made under this Part of this Act so far as appears to him to be necessary to meet exceptional circumstances and enable such arrangements to be made. [821]

*The Minister.*—The Minister of Health (s. 1 (1)).

*Definitions.*—For definitions of “dental practitioner,” “medical practitioner” and “regulations,” see s. 79 (1), *post*.

*Regulations.*—As to regulations, see s. 75, *post*.

*Inquiries.*—As to inquiries, see s. 70, *post*.

*General medical, etc., services.*—As to general medical services, see s. 33, *ante*; as to general dental services, see s. 40, *ante*; as to pharmaceutical services, see s. 38, *ante*.

*Ophthalmic services.*—It will be noted that the Minister's powers under this section cover only three of the four services which it is the duty of the Executive Council under this Part of the Act to provide. He has no powers under this section where the supplementary ophthalmic services are inadequate. The provision of ophthalmic services, however, is primarily the Minister's responsibility through the hospital and specialist services. Note the provisions of s. 41 (4), *ante*.

**44. Recovery of charges in respect of certain appliances and dental treatment.**—(1) Regulations may provide for the making and recovery by persons providing general dental services or supplementary ophthalmic services of such charges as may be prescribed—

- (a) in respect of the supply, as part of those services, of any dental or optical appliance which is, at the request of the person supplied, of a more expensive type than the prescribed type or in respect of the replacement or repair of any such appliance; or
- (b) in respect of the replacement or repair of any dental or optical appliance supplied as part of the services aforesaid, if it is determined in the prescribed manner that the replacement or repair is necessitated by lack of care on the part of the person supplied.

[822]

(2) Regulations may provide that, in the case of such special dental treatment as may be prescribed, being treatment provided as part of the general dental services, such charges as may be prescribed may be made and recovered by the person providing the services. [823]

*Definitions.*—For definitions of “prescribed” and “regulations,” see s. 79 (1), *post*.

*Regulations.*—As to regulations, see s. 75, *post*.

*General dental and supplementary ophthalmic services.*—As to general dental services, see s. 40, *ante*; as to supplementary ophthalmic services, see s. 41, *ante*.

*Charges.*—Normally no charges may be made for services provided under the Act (s. 1 (2)).

**45. Exercise of choice of practitioner in certain cases.**—Regulations may provide that, where a right to choose the person by whom services are to be provided under this Part of this Act is conferred by or under any provision of this Part of this Act, that right shall, in the case of such persons as may be specified in the regulations, be exercised on their behalf by other persons so specified. [824]

*Definition.*—For the meaning of “regulations,” see s. 79 (1), *post*.

*Regulations.*—As to regulations, see s. 75, *post*. Regulations may be made for conferring a right on any person to choose in accordance with the prescribed procedure (i) the medical practitioner providing general medical services by whom he is to be attended (s. 33 (2) (b), *ante*) and (ii) the dental practitioner from whom he is to receive general dental services (see s. 40 (2) (c), *ante*).

**46. Arrangements for use of health centres by practitioners.**—Where a health centre provides facilities for general medical services, general dental services or pharmaceutical services, the centre shall, subject to regulations, be made available for those services on such terms as may be agreed between

the Executive Council and the local health authority providing the centre or, in default of agreement between them, as may be determined by the Minister, and the Executive Council may make such charges for the use of the centre by medical practitioners or dental practitioners providing such services as aforesaid as the Council think sufficient for the purpose of defraying the payments made by them to the local health authority, and may recover those charges from the medical practitioners and dental practitioners using the centre. [825]

*The Minister.*—The Minister of Health (s. 1 (1)).

*Local health authorities.*—Local health authorities are county councils and county borough councils (s. 19 (1)). As to their duty to provide health centres, see s. 21, *ante*.

*Definitions.*—For definitions of "dental practitioner," "medical practitioner" and "regulations," see s. 79 (1), *post*.

*Regulations.*—As to regulations, see s. 75, *post*.

*Charges.*—As to the recovery of charges by an Executive Council, see s. 71, *post*.

**47. Decision of disputes.**—Any dispute arising under this Part of this Act or any regulation made thereunder between an Executive Council and a person receiving, or claiming that he is entitled to receive, any services under this Part of this Act, or between an Executive Council and a local health authority as to the conduct of a health centre, shall be referred to and decided by the Minister. [826]

*The Minister.*—The Minister of Health (s. 1 (1)).

*Local health authorities.*—Local health authorities are county councils and county borough councils (s. 19 (1)). As to their duty to provide health centres, see s. 21, *ante*; and as to the arrangements to be made for the use of the centres by practitioners, see s. 46, *ante*.

*Definition.*—For the meaning of "regulations," see s. 79 (1), *post*. As to regulations, see s. 75, *post*.

**48. Provision of courses for persons providing services.**—For the purpose of affording opportunities for persons providing any services under this Part of this Act to keep themselves informed of the latest developments in professional knowledge, the Minister may enter into arrangements with universities, medical schools and dental schools, and any other persons for the provision of courses which the persons providing such services as aforesaid may attend, and may, with the approval of the Treasury, make payments towards the cost of the provision of such courses and the expenses of persons attending such courses. [827]

*The Minister.*—The Minister of Health (s. 1 (1)).

*Definition.*—For definition of "university," see s. 79 (1), *post*.

## PART V

### SPECIAL PROVISIONS AS TO MENTAL HEALTH SERVICES

**49. Transfer to Minister of certain functions of Board of Control.**—(1) The functions of the Board of Control under the enactments specified in the Eighth Schedule to this Act, being administrative functions relating to—

- (a) the licensing of houses, the registration of hospitals and the approval of nursing homes and other places for the reception of persons suffering from mental illness as private patients;
- (b) the certification of institutions and houses and the approval of homes for the reception of mental defectives;
- (c) the superintendence of the administration by local health authorities of their powers and duties under the Mental Deficiency Acts, 1913 to 1938;
- (d) certain other administrative matters arising under the Lunacy and Mental Treatment Acts, 1890 to 1930, and the Mental Deficiency Acts, 1913 to 1938,

shall be transferred to the Minister. [828]

(2) The officers of the Board of Control, other than the Commissioners, the secretary and inspectors, shall be transferred to the Ministry of Health, and sections twenty-three and twenty-four of the Mental Deficiency Act, 1913 (which provide for the appointment of officers by the Board and as to their disqualification), shall cease to apply to any officers other than the Commissioners, secretary and inspectors. [829]

(3) The services of such officers, other than the Commissioners, secretary and inspectors, as the Board of Control may require for the purpose of the exercise of the functions not transferred to the Minister shall be provided by the Minister. [830]

(4) All property held by the Board of Control, the Minister of Works or the Prison Commissioners for the purposes of any institution for defectives of violent or dangerous propensities established by the Board of Control under section thirty-five of the Mental Deficiency Act, 1913, shall be transferred to and vest in the Minister by virtue of this Act, but any institution designated by the Minister for such defectives shall be under the management of the Board of Control and the provisions of this Act relating to Regional Hospital Boards and Hospital Management Committees shall not apply thereto. [831]

(5) An additional medical Commissioner may be appointed to the Board of Control, and accordingly section eleven of the Mental Treatment Act, 1930 (which provides that the Board of Control is to consist of a chairman and not more than four Commissioners of which two shall be medical Commissioners), shall have effect subject to the amendments specified in Part I of the Ninth Schedule to this Act. [832]

(6) Section twelve of the Mental Treatment Act, 1930 (which makes provision for the administrative business of the Board), shall cease to have effect. [833]

(7) This section shall come into force on the appointed day. [834]

*Object of this Part of the Act.*—The special provisions made by this Part of the Act are necessary in order to bring the mental health services into the comprehensive health service to be provided under the Act. These provisions are, however, intended only to be temporary; the Lord Chancellor stated on the second reading of the Bill that it was the intention of the Government, when time permitted, to make a complete review of the legislation dealing with mental health (143 H. of L. Official Report 3).

*Transfer of functions.*—Draft Orders have been made amending the Mental Deficiency Regulations, 1935, and the Mental Treatment Rules, 1930, as a consequence of this section.

*The Mental Deficiency Acts, 1913 to 1938.*—The Mental Deficiency Acts, 1913 to 1938 are the Mental Deficiency Act, 1913 (11 Halsbury's Statutes, 160); the Mental Deficiency and Lunacy (Amendment) Act, 1919 (9 & 10 Geo. 5, c. 85); the Mental Deficiency (Amendment) Act, 1925 (11 Halsbury's Statutes 199); the Mental Deficiency Act, 1927 (*ibid.* 200); and the Mental Deficiency Act, 1938 (31 Halsbury's Statutes 421).

*The Lunacy and Mental Treatment Acts, 1890 to 1930.*—The Lunacy and Mental Treatment Acts, 1890 to 1930, are the Lunacy Act, 1890 (11 Halsbury's Statutes 17); the Lunacy Act, 1891 (*ibid.* 144); the Lunacy Act, 1908 (*ibid.* 151); the Lunacy Act, 1922 (*ibid.* 199); and the Mental Treatment Act, 1930 (23 Halsbury's Statutes 154).

*Mental Deficiency Act, 1913, ss. 23, 24 and 35.*—11 Halsbury's Statutes 175, 181. Ss. 23 and 24 of that Act are amended by s. 50 and Sched. IX, Part I, *post*.

*Mental Treatment Act, 1930, ss. 11 and 12.*—23 Halsbury's Statutes 165, 167. S. 12 of that Act is repealed by s. 50 and Sched. IX, Part II, *post*.

*Appointed day.*—This section is brought into force as from July 1, 1947, by the National Health Service Act (Appointed Day) Order, 1947 (S. R. & O., 1947, No. 983), though most of the other provisions of the Act are not expected to be brought into operation until July 5, 1948 (see note to s. 3, *ante*).

**50. Repeals and amendments of the Lunacy and Mental Treatment Acts, and the Mental Deficiency Acts.**—(1) As from the appointed day, the provisions of the Lunacy and Mental Treatment Acts, 1890 to 1930, and the Mental Deficiency Acts, 1913 to 1938, and the other enactments specified in Part I of the Ninth Schedule to this Act shall be amended to the extent specified in that Part, and the provisions of the said Acts and the other enactments

specified in Part II of that Schedule shall be repealed to the extent specified in the third column of that Part, such amendment and repeal being required—

- (a) in consequence of the provision by the Minister, instead of local authorities, of hospitals for mental patients and institutions for defectives ;
- (b) for making it unlawful to detain persons of unsound mind and mental defectives in workhouses ;
- (c) for the purpose of assimilating the procedure for securing the reception into and discharge from mental hospitals of private patients and other patients, respectively, and
- (d) generally for bringing the provisions of the said Acts into conformity with the provisions of this Act. [835]

(2) Nothing in the aforesaid repeals and amendments or in the provisions of this Act shall affect any order, certificate, licence, registration, approval, regulation or other thing, made, issued, granted or done under any provision of any enactment specified in the Ninth Schedule to this Act, if it was in force immediately before the appointed day and could have been made, issued, granted or done under that provision as amended by this Act or under any corresponding provision of this Act, and any such order, certificate, licence, registration, approval, regulation or other thing shall be deemed to have been duly made, issued, granted or done under that provision as so amended or under that provision of this Act. [836]

(3) Where immediately before the appointed day any person is, by virtue of an order made under subsections (3) and (4) of section twenty-four of the Lunacy Act, 1890, or section nineteen of the Mental Treatment Act, 1930, detained in any workhouse or part of a workhouse within the meaning of the Lunacy Act, 1890, or any hospital or part of a hospital approved for the purposes of section nineteen of the Mental Treatment Act, 1930, which is transferred to the Minister by virtue of this Act and is or forms part of a hospital designated by him as a mental hospital, the said order shall have effect as if it were an order made on the appointed day under section sixteen of the Lunacy Act, 1890, for the detention of that person in that mental hospital. [837]

(4) Where immediately before the appointed day any person is, by virtue of an order made under the Lunacy and Mental Treatment Acts, 1890 to 1930, or the Mental Deficiency Acts, 1913 to 1938, detained in any workhouse or part of a workhouse within the meaning of the Lunacy Act, 1890, which is not transferred to the Minister by virtue of this Act, the order shall, for a period of six months, continue to be an authority for his detention therein, and, while he is so detained, the provisions of the Lunacy and Mental Treatment Acts, 1890 to 1930, or of the Mental Deficiency Acts, 1913 to 1938, as the case may be, shall continue to apply to him as if this Act had not passed, and the said order shall also be an authority for his transfer to and detention in any mental hospital or, as the case may be, institution for defectives, vested in the Minister, and shall have effect, in the case of detention in a mental hospital, as if it were an order made on the appointed day under section sixteen of the Lunacy Act, 1890. [838]

*Appointed day.*—By S. R. & O., 1947, No. 983, made while this volume was in the press stage, sub-ss. (1) and (2) of this section are brought into force as from July 1, 1947, so far as they relate to such of the amendments and repeals in Sched. IX, *post*, as are consequential on the transfer of functions and other changes effected by s. 49, *ante*. For details of the amendments, etc. see Articles 2 and 3 of S. R. & O., 1947, No. 983. As to the residue, see note to s. 3, *ante*.

*Lunacy and Mental Treatment Acts, 1890 to 1930, and the Mental Deficiency Acts, 1913 to 1938.*—For the statutes comprised in these Acts, see notes to s. 49, *ante*.

**51. Proposals for carrying out of duties by local health authorities under Lunacy and Mental Treatment Acts and Mental Deficiency Acts.**—(1) Section twenty of this Act (which requires local health authorities to submit

proposals to the Minister for carrying out their duties under certain provisions of Part III of this Act and to carry out those duties in accordance with the proposals) shall apply with respect to the duties of local health authorities under the Lunacy and Mental Treatment Acts, 1890 to 1930, and the Mental Deficiency Acts, 1913 to 1938. [839]

(2) Where a local health authority makes arrangements with any voluntary organisation for the performance of any services in connection with the duties of the local health authority under the Mental Deficiency Acts, 1913 to 1938, the local health authority may, with the approval of the Minister, contribute to that voluntary organisation. [840]

*Object of this part of the Act.*—See note to s. 49, *ante*.

*The Minister.*—The Minister of Health (s. 1 (1)).

*Lunacy and Mental Treatment Acts, 1890 to 1930, and the Mental Deficiency Acts, 1913 to 1938.*—For the statutes comprised in these Acts see notes to s. 49, *ante*.

*Local health authorities.*—Local health authorities are county councils and county borough councils (s. 19 (1)).

*Definition.*—For definition of "voluntary," see s. 79 (1), *post*.

## PART VI

### GENERAL

#### *Financial Provisions*

**52. Expenses and receipts of the Minister.**—(1) Any expenses incurred by the Minister in the exercise of his functions under this Act, the Lunacy and Mental Treatment Acts, 1890 to 1930, or the Mental Deficiency Acts, 1913 to 1938, shall be defrayed out of moneys provided by Parliament. [841]

(2) All sums received by the Minister under this Act, except sums required to be transferred to the Hospital Endowments Fund, shall be paid into the Exchequer. [842]

*The Minister.*—The Minister of Health (s. 1 (1)).

*Lunacy and Mental Treatment Acts, 1890 to 1930, and the Mental Deficiency Acts, 1913 to 1938.*—For the statutes comprised in these Acts see notes to s. 49, *ante*.

*Hospital Endowments Fund.*—As to money forming part of the Hospital Endowments Fund, see s. 56 (2), *post*.

**53. Grants to local health authorities.**—(1) In respect of the period beginning with the appointed day and ending with the thirty-first day of March next following and each subsequent period of twelve months, there shall be paid out of moneys provided by Parliament to every local health authority a grant in respect of the expenditure, estimated in the prescribed manner, incurred by the authority in carrying out their functions as a local health authority, whether under this Act or any other enactment, and the grant shall be payable in accordance with regulations made by the Minister with the approval of the Treasury :

Provided that the total amount of the grant payable to any local health authority in respect of any such period shall not exceed three-quarters of the total expenditure estimated as aforesaid of that authority, and shall not be less than three-eighths of that expenditure. [843]

(2) Where any functions of two or more local health authorities are being exercised by a joint board, grants shall be paid to the said authorities under the last foregoing subsection in respect of their expenditure in defraying expenses of the board in exercising those functions, as if that expenditure were incurred by them in exercising functions as local health authorities. [844]

(3) For the purposes of section one hundred and four of the Local Govern-



ment Act, 1929 (which authorises the reduction of grants payable under Part VI of that Act to a council which fails to achieve and maintain an efficient service), grants payable under this section shall be deemed to be payable under the said Part VI. [845]

(4) The council of every county and county borough, the Common Council of the City of London and the council of every metropolitan borough shall pay to the Minister in respect of the period beginning with the appointed day and ending with the thirty-first day of March next following, and each subsequent period of twelve months during the third fixed grant period within the meaning of the Local Government Act, 1929, a sum equal to the loss on account of the grants mentioned in paragraph 2 of the Second Schedule to the Local Government Act, 1929, discontinued by virtue of section eighty-five of that Act, as determined in accordance with Part II of the Fourth Schedule to that Act, less such part of that loss as is attributable to grants for the welfare of the blind :

Provided that—

- (a) where the said loss on account of the said grants has, in the case of the council of any county or county borough, the Common Council of the City of London or the council of any metropolitan borough, been increased or reduced by an amount certified by the Minister under regulations made under paragraph (b) of subsection (1) of section one hundred and eight of the Local Government Act, 1929, the payment to be made by the council under this subsection shall be increased or reduced by such part of the amount so certified as is attributable to the said grants other than grants for the welfare of the blind ;
- (b) in the case of a county or county borough or metropolitan borough constituted since the thirty-first day of March, nineteen hundred and twenty-nine, the amount to be paid by the council thereof under this section shall be the amount certified by the Minister under the said regulations as the loss of that county or county borough or metropolitan borough on account of the said grants, less such part of that amount as is attributable to grants for the welfare of the blind ;
- (c) if the said third fixed grant period ends during the period beginning with the appointed day and ending with the thirty-first day of March next following or during any subsequent period of twelve months, the payments to be made by councils under this subsection in respect of that period shall bear the same proportion to the sums that would be payable in respect of a complete period of twelve months as that period bears to a complete period of twelve months. [846]

*Local Government Act, 1929, ss. 85, 104 and 108 (1) (b), Sched. II, para. 2, Sched. IV, Part II.*—10 Halsbury's Statutes 937, 948, 950, 979, 982. For Part VI, see *ibid.* 937. The term "fixed grant period" is defined by s. 86 (2) thereof, *ibid.* 938.

*Local health authorities.*—Local health authorities are county councils and county borough councils (s. 19 (1)). As to joint boards, see s. 19 (2), (3), *ante*.

*Definitions.*—For definitions of "prescribed" and "regulations," see s. 79 (1), *post*.

*Appointed day.*—See s. 79 (1), *post*. Though no day has been appointed at the time of going to press, the Prime Minister said in the House of Commons on June 9, 1947, that it was hoped to bring the Act, with the National Insurance schemes, into full operation by July 5, 1948 (see 438 H. of C. Official Report 705).

*Regulations.*—As to regulations, see s. 75, *post*.

**54. Payments to Regional Hospital Boards, Boards of Governors, Executive Councils and other bodies.**—(1) There shall be paid out of moneys provided by Parliament to—

- (a) every Regional Hospital Board such sums as may be necessary to



defray the expenditure of the Board (including expenditure incurred by a Hospital Management Committee in exercising functions on behalf of the Board), being expenditure approved by the Minister in the prescribed manner ;

- (b) every Board of Governors of a teaching hospital such sums as may be necessary to defray the expenditure of the Board being expenditure approved as aforesaid. [847]

(2) All expenditure of a Hospital Management Committee approved as aforesaid shall be defrayed by the Regional Hospital Board for the area in which the hospital or group of hospitals in question is situated. [848]

(3) There shall be paid out of moneys provided by Parliament to every Executive Council such sums as the Minister may with the approval of the Treasury determine to have been incurred by the Council, or by an Ophthalmic Services Committee on behalf of the Council, for the purpose of discharging their functions under this Act. [849]

(4) There shall be paid out of moneys provided by Parliament such expenses incurred by the Central Council, any standing advisory committee constituted under section two of this Act, the Medical Practices Committee, the Tribunal constituted under section forty-two of this Act and the Dental Estimates Board as may be determined by the Minister with the approval of the Treasury. [850]

(5) Any payments made under regulations in respect of any loss of remunerative time or any travelling or subsistence expenses to the members of any body constituted under this Act, and any remuneration so payable to members of the Medical Practices Committee, the Tribunal constituted under section forty-two of this Act or the Dental Estimates Board shall be defrayed out of moneys provided by Parliament. [851]

(6) Payments made under this section shall be made in accordance with regulations made by the Minister and approved by the Treasury, and shall be made at such times and in such manner as the Treasury may direct, and subject to such conditions as to records, certificates, or otherwise [as] the Minister may with the approval of the Treasury determine. [852]

*The Minister.*—The Minister of Health (s. 1 (1)).

*Definitions.*—For definitions of “hospital,” “prescribed” and “regulations,” see s. 79 (1), *post*.

*Regulations.*—As to regulations, see s. 75, *post*.

*Ophthalmic Services Committee.*—As to the exercise of functions of an Executive Council by an Ophthalmic Services Committee, see s. 41 (2), *ante*.

*Corrigendum.*—The word in square brackets in sub-s. (6) is not in the King's Printer's copy of the Act, but as it was printed in the Bill and not deleted therefrom by any amendment, it is presumed that its omission is an error and it is accordingly printed here.

**55. Accounts of councils of county boroughs, Regional Hospital Boards, Boards of Governors and Executive Councils.**—(1) Every local health authority being the council of a county borough shall keep accounts of the sums received and expended by them in the exercise of their functions as such an authority, whether under this Act or under any other enactment, and those accounts shall be made up and audited in like manner as the accounts of a county council and shall be kept separately from their other accounts ; and the enactments relating to the audit of accounts by a district auditor and to the matters incidental to such audit and consequential thereon shall have effect in relation to the accounts which the council of a county borough are required to keep under this section as they have effect in relation to the accounts of a county council. [853]

(2) Every Regional Hospital Board, Board of Governors of a teaching hospital, Hospital Management Committee and Executive Council shall keep accounts in such form as the Minister may with the approval of the Treasury

prescribe, and those accounts shall be audited by auditors appointed by the Minister, and the Comptroller and Auditor General may examine all such accounts and any records relating thereto and any report of the auditor thereon. [854]

(3) Every such Board, Committee and Council shall prepare and transmit to the Minister in respect of each financial year annual accounts in such form as the Minister may with the approval of the Treasury prescribe. [855]

(4) The Minister shall prepare in respect of each financial year, in such form as the Treasury may direct, summarised accounts of such Boards, Committees and Councils, and shall transmit them on or before the thirtieth day of November in each year to the Comptroller and Auditor General who shall examine and certify them and lay copies of them together with his report thereon before both Houses of Parliament. [856]

*The Minister.*—The Minister of Health (s. 1 (1)).

**56. Accounts and investments of Hospital Endowments Fund.**—(1) The Minister shall prepare in respect of each financial year, in such form as the Treasury may direct, accounts of all moneys received into or paid out of the Hospital Endowments Fund and of any other assets transferred into or out of that Fund, and the Comptroller and Auditor General shall examine and certify such accounts and lay copies of them together with his report thereon before both Houses of Parliament. [857]

(2) Any moneys forming part of the Hospital Endowments Fund may from time to time be paid over to the National Debt Commissioners, and by them invested in any securities which are for the time being authorised by Parliament as investments for savings banks funds. [858]

*The Minister.*—The Minister of Health (s. 1 (1)).

*Endowments.*—Except in the case of teaching hospitals all endowments of transferred voluntary hospitals and all "endowments" of hospitals belonging to local authorities, which are held immediately before the appointed day, will be transferred to the Hospital Endowments Fund (s. 7 (4), (11), *ante*).

*National Debt Commissioners.*—For the constitution of the National Debt Commissioners, see the National Debt Reduction Act, 1786 (16 Halsbury's Statutes 27).

### *Administrative provisions*

**57. Default powers of Minister.**—(1) Where the Minister is of opinion, on complaint or otherwise, that any Regional Hospital Board, Board of Governors of a teaching hospital, Hospital Management Committee, Executive Council, Ophthalmic Services Committee or local health authority, or the Medical Practices Committee or the Dental Estimates Board have failed to carry out any functions conferred or imposed on them by or under this Act, or have in carrying out those functions failed to comply with any regulations or directions relating thereto, he may after such inquiry as he may think fit make an order declaring them to be in default. [859]

(2) Except where the body in default is a local health authority, the members of the body shall forthwith vacate their office and the order shall provide for the appointment, in accordance with the provisions of this Act, of new members of the body, and may contain such provisions as seem to the Minister expedient for authorising any person to act in the place of the body in question pending the appointment of the new members. [860]

(3) If the body in default is a local health authority, the order shall direct them, for the purpose of remedying the default, to discharge such of their functions, in such manner and within such time or times, as may be specified in the order, and if the authority fail to comply with any direction given under this subsection, within the time limited for compliance therewith,

the Minister, in lieu of enforcing the order by mandamus or otherwise, may make an order transferring to himself such of the functions of the authority as he thinks fit. [861]

(4) Any expenses certified by the Minister to have been incurred by him in discharging functions transferred to him under this section from a local health authority shall on demand be paid to him by that authority and shall be recoverable by him from them as a debt due to the Crown, and the authority or (in the case of a joint board) any constituent local authority thereof shall have the like power of raising the money required as they have of raising money for paying expenses incurred directly by them, and the payment of any such expenses incurred by the Minister as aforesaid shall, to such extent as may be sanctioned by the Minister, be a purpose for which the authority may borrow money in accordance with the statutory provisions relating to borrowing by that authority. [862]

(5) An order made under this section may contain such supplementary and incidental provisions as appear to the Minister to be necessary or expedient, including provision for the transfer to the Minister of property and liabilities of the body in default, and where any such order is varied or revoked by a subsequent order, the revoking order or a subsequent order may make provision for the transfer to the body in default of any property or liabilities acquired or incurred by the Minister in discharging any of the functions transferred to him. [863]

*General effect of section.*—See Preliminary Note, ante.

*The Minister.*—The Minister of Health (s. 1 (1)).

*Definitions.*—For definitions of "local authority," "property" and "regulations," see s. 79 (1), *post*.

*Local health authorities.*—Local health authorities are county councils and county borough councils (s. 19 (1)).

*Regulations and orders.*—As to regulations and orders, see s. 75, *post*.

*Inquiries.*—As to inquiries by the Minister, see s. 70, *post*.

**58. Acquisition of land.**—(1) The Minister may acquire, either by agreement or compulsorily, any land required by him for the purposes of this Act, and, without prejudice to the generality of this subsection, land may be so acquired for the purpose of providing residential accommodation for persons employed at any hospital vested in the Minister. [864]

(2) A local health authority may be authorised to purchase land compulsorily for the purposes of this Act by means of an order made by the authority and confirmed by the Minister. [865]

(3) The Acquisition of Land (Authorisation Procedure) Act, 1946, shall apply to the compulsory purchase of land by the Minister or a local health authority under this section, and accordingly shall have effect—

- (a) as if subsection (1) of section one thereof (which refers to the compulsory purchase of land by local authorities under public general Acts in force immediately before the commencement of that Act and by the Minister of Transport under certain enactments) included a reference to any compulsory purchase of land by the Minister under this section; and
- (b) as if this section had been in force immediately before the commencement of the said Act:

Provided that section two of the said Act (which confers temporary powers for speedy acquisition of land in urgent cases) shall not apply to any compulsory purchase of land under this section. [866]

(4) Section one hundred and seventy-six of the Local Government Act, 1933 (which applies the Lands Clauses Acts to acquisition of land by agreement) shall apply to the acquisition of land by the Minister under this section

in like manner as it applies to such acquisition by a local authority under Part VII of the said Act. [867]

*The Minister.*—The Minister of Health (s. 1 (1)).

*Acquisition of Land (Authorisation Procedure) Act, 1946.*—See p. 223, *ante*.

*Local Government Act, 1933, Part VII, s. 176.*—26 Halsbury's Statutes 391, 403.

*Acquisition of hospital equipment.*—Where the Minister acquires under this section any hospital within the meaning of s. 9 (1), *ante*, he may also compulsorily acquire any moveable property used in connection with the hospital premises (s. 10).

*Local health authorities.*—Local health authorities are county councils and county borough councils (s. 19 (1)).

**59. Power of Regional Hospital Boards, Boards of Governors and Hospital Management Committees to accept gifts.**—(1) A Regional Hospital Board and the Board of Governors of any teaching hospital and a Hospital Management Committee shall have power to accept, hold and administer any property upon trust for purposes relating to hospital services or to the functions of the Board or Committee under Part II of this Act with respect to research. [868]

(2) Part II of the Mortmain and Charitable Uses Act, 1888, and the Mortmain and Charitable Uses Act, 1891 (which impose restrictions upon assurances of land and personal estate to charitable uses), shall not have effect with respect to any assurance (within the meaning of section ten of the said Act of 1888) to any such Board or Committee of land or of personal estate to be laid out in the purchase of land. [869]

*Mortmain and Charitable Uses Act, 1888, Part II, s. 10.*—2 Halsbury's Statutes 839, 391.

*Mortmain and Charitable Uses Act, 1891.*—*Ibid.* 396.

*Endowments given between passing of the Act and the appointed day.*—Endowments of hospitals, which are given after the passing of the Act (November 6, 1946) and before the appointed day, vest in the Boards of Governors of teaching hospitals and in Hospital Management Committees in certain circumstances; see s. 7, *ante*.

**60. Power of trustees to make payments to Regional Hospital Boards and Boards of Governors.**—(1) Where property, other than property transferred to the Minister or to the Board of Governors of a teaching hospital or to a Hospital Management Committee under section six or section seven of this Act, is held on trust immediately before the appointed day, and the terms of the trust instrument authorise or require the trustees, whether immediately or in the future, to apply any part of the capital or income of the trust property for the purposes of any hospital to which section six of this Act applies, the trust instrument shall be construed as authorising or, as the case may be, requiring the trustees to apply the trust property, to the like extent and at the like times, for the purpose of making payments, whether of capital or income—

- (a) in the case of a hospital designated as a teaching hospital or included in a group of hospitals so designated, to the Board of Governors of that teaching hospital;
- (b) in the case of any other hospital, to the Regional Hospital Board for the area in which the hospital is situated or to the Hospital Management Committee for the hospital or for the group of hospitals in which it is comprised. [870]

(2) Any sums paid as aforesaid to any such Board or Committee shall, so far as practicable, be applied by them for the purposes specified in the trust instrument. [871]

*Appointed day.*—See s. 79 (1), *post*. Though no day has been appointed at the time of going to press, the Prime Minister said in the House of Commons on June 9, 1947, that it was hoped to bring the Act, with the National Insurance schemes, into full operation by July 5, 1948 (see 438 H. of C. Official Report 705).

*Definitions.*—For definitions of "property," "hospital" and "teaching hospital," see s. 79 (1).

**61. Preservation of associations of denominational hospitals.**—Where the character and associations of any voluntary hospital transferred to the Minister by virtue of this Act are such as to link it with a particular religious denomination, regard shall be had in the general administration of the hospital and in the making of appointments to the Hospital Management Committee to the preservation of the character and associations of the hospital. [872]

*The Minister.*—The Minister of Health (s. 1 (1)).

*Definitions.*—For definitions of “hospital” and “voluntary,” see s. 79 (1), *post*.

**62. Provision of special schools.**—A Regional Hospital Board or Board of Governors of a teaching hospital may, with the approval of the Minister, arrange with any local education authority or voluntary organisation for—

- (a) the use of any premises forming part of a hospital administered by the Regional Hospital Board or, as the case may be, forming part of the teaching hospital, as a special school; and
- (b) the maintenance by the Board, where necessary, of children (other than patients) attending the special school;

and the arrangements may include provision for the payment of charges by the local education authority or voluntary organisation, as the case may be, in respect of the use of such premises and the maintenance of such children. [873]

*The Minister.*—The Minister of Health (s. 1 (1)).

*Definitions.*—For definitions of “hospital,” “local education authority,” “teaching authority” and “voluntary,” see s. 79 (1), *post*.

*Recovery of charges.*—As to the recovery of charges, see s. 71, *post*. Normally no charges may be made for any services provided under the Act (s. 1 (2)).

**63. Use of premises and equipment of local health authority by other authorities.**—A local health authority who provide premises, furniture or equipment for any of the purposes of this Act may, on such terms (including terms with respect to the services of any staff employed by them) as may be agreed, permit the use thereof by any other local health authority or by any of the bodies constituted under this Act or by any voluntary organisation providing services under Part III of this Act or any service connected with the duties of a local health authority under the Mental Deficiency Acts, 1913 to 1938, or by a local education authority. [874]

*Local health authorities.*—Local health authorities are county councils and county borough councils (s. 19 (1)).

*The Mental Deficiency Acts, 1913 to 1938.*—For the Acts comprised in the Mental Deficiency Acts, 1913 to 1938, see note to s. 49, *ante*.

*Definitions.*—For definitions of “equipment,” “local education authority” and “voluntary,” see s. 79 (1), *post*.

**64. Supply of goods by local health authorities.**—A local health authority may purchase and store and supply to the following authorities, that is to say—

- (a) any other local health authority;
- (b) any Regional Hospital Board or Board of Governors of a teaching hospital or Hospital Management Committee; or
- (c) any Executive Council;

any goods or materials required for the discharge of the functions of the authority supplied, on such terms as may be agreed between the two authorities. [875]

*Local health authorities.*—Local health authorities are county councils and county borough councils (s. 19 (1)).

**65. Provision of residential accommodation for staff.**—A local health authority may provide, or may improve or furnish, residential accommodation for officers employed by them for the purposes of any of their functions as a local health authority, or for officers employed by a voluntary organisation for the purposes of any services provided under Part III of this Act. [876]

*Local health authorities.*—Local health authorities are county councils and county borough councils (s. 19 (1)).

*Definitions.*—For definitions of “ officer ” and “ voluntary,” see s. 79 (1), *post*.

**66. Qualifications, remuneration and conditions of service of officers.**—Regulations may make provision with respect to the qualifications, remuneration, and conditions of service of any officers employed by any body constituted under this Act or employed by a local health authority in their capacity as such authority or by any such voluntary organisation as is referred to in section sixty-three of this Act, and no officer to whom the regulations apply shall be employed otherwise than in accordance with the regulations. [877]

*Definitions.*—For definitions of “ officer,” “ regulations ” and “ voluntary,” see s. 79 (1), *post*.

*Regulations.*—As to regulations, see s. 75, *post*.

*Local health authorities.*—Local health authorities are county councils and county borough councils (s. 19 (1)).

**67. Superannuation of officers.**—(1) Regulations may provide—

- (a) for the granting out of moneys provided by Parliament of superannuation benefits to officers of such classes as may be prescribed, being officers of Regional Hospital Boards, Boards of Governors of teaching hospitals, Executive Councils or other bodies constituted under this Act, or other officers engaged in health services, whether provided under this Act or otherwise but not provided by a local health authority or other local authority, and for the recovery of contributions from such officers and, in such cases as may be prescribed, from their employers ;
- (b) for extending, with such modifications as may be prescribed, the provisions of the Local Government Superannuation Act, 1937, or any local Act scheme within the meaning of that Act to such officers as may be prescribed, or for modifying the provisions of the said Act or of any such scheme in their application to such officers as may be prescribed, being in either case officers of local health authorities or other local authorities or officers of voluntary organisations engaged in the provision of services under Part III of this Act or under the Mental deficiency Acts, 1913 to 1938 ;
- (c) for the granting out of moneys provided by Parliament of superannuation benefits to medical practitioners and dental practitioners providing general medical services or general dental services, and for the recovery of contributions from such practitioners and, in such cases as may be prescribed, from Executive Councils ;
- (d) for dealing with cases where any person is engaged in employment which would bring him within all or any two of the foregoing paragraphs ;
- (e) for the payment to the Minister by any local authority or other person of transfer value in respect of persons who become entitled to participate in superannuation benefits provided under the regulations out of moneys provided by Parliament, who were previously entitled to participate in superannuation benefits



provided by that authority or person or to which that authority or person was liable to contribute, or for the transfer to the Minister, in lieu of such payment, of any fund or part of a fund or policy of insurance previously maintained for the purpose of providing superannuation benefits to persons who become entitled to participate in superannuation benefits provided under the regulations out of moneys provided by Parliament ;

- (f) for the payment of transfer value by the Minister in respect of persons leaving employment entitling them to participate in superannuation benefits provided under the regulations out of moneys provided by Parliament and entering employment entitling them to participate in superannuation benefits otherwise provided ;
- (g) for making special provision for special classes of persons ;
- (h) for granting to persons who, immediately before becoming entitled to participate in superannuation benefits provided under or by virtue of the regulations, were entitled to participate in other superannuation benefits, an option to retain rights corresponding with those previously enjoyed by them in lieu of the rights which they would otherwise enjoy under or by virtue of the regulations ;
- (i) for the determination of all questions arising under the regulations by the Minister ;
- (k) for such provisions supplementary to and consequential on the matters aforesaid as appear to the Minister to be necessary, including provisions for adapting, modifying or repealing any Acts of Parliament, whether public general, local or private, or any such local Act schemes as aforesaid so far as appears to the Minister to be necessary in consequence of the regulations. [878]

(2) If the Minister and a Secretary of State are satisfied that any Act for the time being in force in Scotland or in Northern Ireland makes provision with respect to the superannuation of persons employed in health services in Scotland or Northern Ireland which is substantially similar to the provision made under this section, they may make regulations with respect to the rights and liabilities of any person who leaves employment in Scotland or Northern Ireland entitling him to participate in superannuation benefits (whether provided under the said Act or otherwise) and enters into employment in respect of which superannuation benefits are provided under regulations made under subsection (1) of this section or into the employment of a local health authority in respect of which superannuation benefits are provided under the Local Government Superannuation Act, 1937, as extended or modified by the regulations, or under a local Act scheme as so extended or modified, and vice versa, and with respect to the rights and liabilities of the Minister, the Secretary of State and other authorities concerned. [879]

*Definitions.*—For definitions of “dental practitioner,” “local authority,” “medical practitioner,” “officer,” “prescribed,” “regulations” and “superannuation benefits,” see s. 79 (1), *post*.

*Regulations.*—As to regulations, see s. 75, *post*. At the time of going to press a draft of Regulations proposed to be made under sub-s. (1) of this section has been published and awaits approval by resolution of each House of Parliament.

*Local Government Superannuation Act, 1937.*—30 Halsbury's Statutes 387.

*The Mental Deficiency Acts, 1913 to 1938.*—For the Acts comprised in the Mental Deficiency Acts, 1913 to 1938, see the note to s. 49, *ante*. The small “d” in the words “Mental deficiency Acts” in sub-s. (1) (b), *supra*, is so printed in the King's Printer's copy.

**68. Transfer and compensation of officers.**—(1) Regulations shall provide—

- (a) for the transfer of officers employed immediately before the appointed



day solely or mainly at or for the purposes of any hospital transferred to the Minister by virtue of this Act, to the Regional Hospital Board for the area in which the hospital is situated or, in the case of a teaching hospital, to the Board of Governors of that hospital, subject, in the case of honorary officers, to such exceptions and conditions as may be prescribed ;

- (b) for the transfer of officers employed immediately before the appointed day solely or mainly at or for the purposes of a medical or dental school for which a new governing body is constituted under Part II of this Act, to that governing body ;
- (c) for the transfer of officers employed immediately before the appointed day by the Common Council of the City of London, the council of a metropolitan borough or the council of a county district solely or mainly for the purposes of functions transferred from that council to a local health authority, to that authority ;
- (d) for the transfer of officers employed immediately before the appointed day by the insurance committee for any county or county borough to the Executive Council for the area comprising that county or county borough ;
- (e) for the payment of compensation subject to any prescribed exceptions or conditions, by the Minister or such local health authority or other local authority as may be prescribed, to persons who immediately before the appointed day—

- (i) devoted the whole of their time to employment by the governing body of a voluntary hospital, a local authority, an insurance committee or any such other body as may be prescribed, or to any combination of such employments ; and

- (ii) were employed for at least part of their time for the purposes of any hospital transferred to the Minister by virtue of this Act or for the purposes of functions which cease, or are transferred from the employing authority or body, in consequence of this Act,

and who suffer loss of employment or loss or diminution of emoluments which is attributable to the passing of this Act ;

- (f) for the payment of compensation subject to any prescribed exceptions or conditions by the Minister or the appropriate authority to officers who, having before the appointed day been employed in the employment mentioned in paragraph (e) hereof, would have been in that employment immediately before that day but for any war service in which they have been engaged ; and
- (g) for the determination of all questions arising under the regulations.

**[880]**

- (2) This section shall—

- (i) apply, in the case of an officer employed immediately before the appointed day solely or mainly for the purposes of two or more hospitals, not all of which will be administered by the same Regional Hospital Board or Board of Governors, with the modification that the Board to whom the officer is to be transferred shall be determined by the Minister ;

- (ii) apply in relation to a joint insurance committee constituted under section ninety-four of the National Health Insurance Act, 1936, as it applies to an insurance committee for a county or county borough, with the modification that the Executive Council to whom any officer is to be transferred shall be determined by the Minister,

and the expression "war service" in this section means service in any of His Majesty's forces and such other employment as may be prescribed. [881]

*The Minister.*—The Minister of Health (s. 1 (1)).

*Definitions.*—For definitions of "hospital," "insurance committee," "local authority," "officer," "regulations" and "teaching hospital," see s. 79 (1), *post*.

*Regulations.*—As to regulations, see s. 75, *post*.

*National Health Insurance Act, 1936, s. 94.*—29 Halsbury's Statutes 1122.

**69. Consequential provisions on transfer of functions.**—(1) Regulations may make such provision consequential on or supplementary to the transfer of any functions by virtue of this Act from the Common Council of the City of London, the council of a metropolitan borough or the council of a county district to a local health authority as appears to the Minister to be necessary or expedient, and in particular, but without prejudice to the generality of this subsection, regulations may provide—

- (a) for the transfer to the local health authority of property and liabilities held or incurred for the purposes of the said functions ;
- (b) for the making of adjustments between the local health authority and the council from whom the functions were transferred in relation to the said property and liabilities, including the making of payments by the said authority or council ;
- (c) for the amendment of documents relating to the said property and liabilities to such extent as appears to the Minister to be necessary for the purposes of such transfer ;
- (d) for enabling any proceedings pending on the appointed day with respect to any such functions, property or liabilities to be carried on by or against the local health authority ;
- (e) for continuing in force anything done by or in relation to the authority from whom any functions were so transferred ; and
- (f) for the determination of questions arising in relation to the matters aforesaid. [882]

(2) Regulations may also provide—

- (a) for the transfer of property and liabilities to an Executive Council from the insurance committee for any county or county borough comprised in the area of the Council, and for the amendment of any contracts or other documents relating thereto to such extent as appears to the Minister to be necessary for the purposes of such transfer ;
- (b) for the transfer of property and liabilities to the Minister from the Dental Benefit Council constituted under the National Health Insurance Act, 1936, and the Committee approved for the purpose of administering ophthalmic benefit under that Act, and for the amendment of contracts and other documents to such extent as appears to the Minister to be necessary for the purposes of such transfer ;
- (c) for enabling any proceedings pending with respect to any such property or liabilities to be carried on by or against the Executive Council or the Minister as the case may be ; and
- (d) for the determination of questions arising in relation to the matters aforesaid.

This subsection shall apply in relation to a joint insurance committee constituted under section ninety-four of the National Health Insurance Act, 1936, as it applies in relation to an insurance committee for a county or

county borough, with the modification that the Executive Council to whom any property, right or liability is to be transferred, or by or against whom any proceedings are to be carried on, shall be determined by the Minister. [883]

*The Minister.*—The Minister of Health (s. 1 (1)).

*Local health authorities.*—Local health authorities are county councils and county borough councils (s. 19 (1)).

*Definitions.*—For definitions of “insurance committee,” “property” and “regulations,” see s. 79 (1), *post*.

*Regulations.*—As to regulations, see s. 75, *post*.

*National Health Insurance Act, 1936.*—29 Halsbury's Statutes 1071. For s. 94, see *ibid.* 1122.

**70. Inquiries.**—The Minister may cause an inquiry to be held in any case where he deems it advisable to do so in connection with any matter arising under this Act, and subsections (2) to (5), of section two hundred and ninety of the Local Government Act, 1933, shall apply to any inquiry held under this Act :

Provided that no local authority shall be ordered to pay costs under subsection (4) of that section in the case of any inquiry unless it is a party thereto. [884]

*The Minister.*—The Minister of Health (s. 1 (1)).

*Local Government Act, 1933, s. 290.*—26 Halsbury's Statutes 459.

*Definition.*—For definition of “local authority,” see s. 79 (1), *post*.

**71. Recovery of charges.**—All charges recoverable under this Act by the Minister, a local health authority or any body constituted under this Act, may, without prejudice to any other method of recovery, be recovered summarily as a civil debt. [885]

*The Minister.*—The Minister of Health (s. 1 (1)).

*Local health authorities.*—Local health authorities are county councils and county borough councils (s. 19 (1)).

**72. Protection of members and officers of certain bodies.**—Section two hundred and sixty-five of the Public Health Act, 1875 (which relates to the protection of members and officers of certain authorities), shall have effect as if there were included among the authorities therein referred to a Regional Hospital Board, the Board of Governors of a teaching hospital, a Hospital Management Committee, a local health authority and an Executive Council, and as if any reference in that section to the Public Health Act, 1875, included a reference to this Act. [886]

*Public Health Act, 1875, s. 265.*—13 Halsbury's Statutes 734.

*Local health authorities.*—Local health authorities are county councils and county borough councils (s. 19 (1)).

**73. Exemptions from stamp duty on certain documents required for purposes of Act.**—Stamp duty shall not be chargeable on any draft, order or receipt given by or to an Executive Council in respect of money payable in pursuance of this Act, or on any agreement entered into by any person with an Executive Council for the provision of services under Part IV of this Act, or on any document required in connection with the transfer of property or liabilities from an insurance committee to an Executive Council. [887]

*Definitions.*—For definitions of “insurance committee” and “property,” see s. 79 (1), *post*.

**74. Miscellaneous administrative matters.**—Regulations may make provision for all or any of the following matters :

- (a) for prescribing the forms of notices and other documents, and the manner of service of notices and other documents ;
- (b) for prescribing the manner in which documents may be executed or proved ;

- (c) for prescribing the manner in which resolutions of local health authorities and any bodies constituted under this Act are to be proved ;
- (d) for exempting judges and justices of the peace from disqualification by their liability to rates. [888]

*Definition.*—For definition of “ regulations,” see s. 79 (1), *post*.  
*Regulations.*—As to regulations, see s. 75, *infra*.

**75. Regulations and orders.**—(1) No regulations shall be made under section sixty-seven or section sixty-eight of this Act unless a draft of the regulations has been laid before Parliament and has been approved by resolution of each House of Parliament. [889]

(2) All regulations made under this Act, except regulations made under section sixty-seven or section sixty-eight, and all orders made under subsection (2) of section two or section seventy-seven of this Act and such of the orders made under subsection (1) of section eleven of this Act as determine the areas for which Regional Hospital Boards are to be constituted shall be laid before Parliament immediately after they are made, and if either House of Parliament, within the period of forty days beginning with the day on which any such regulations or order are or is laid before it, resolves that the regulations or order be annulled, the regulations or order shall cease to have effect, but without prejudice to anything previously done thereunder or to the making of new regulations or a new order.

In reckoning any such period of forty days, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days. [890]

(3) Any power conferred on the Minister by this Act to make regulations shall, if the Treasury so direct, not be exercisable except in conjunction with the Treasury. [891]

(4) Any order made by the Minister under this Act may be varied or revoked by a subsequent order of the Minister made in like manner and subject to the like conditions as the original order. [892]

(5) Section one of the Rules Publication Act, 1893 (which requires notice to be given of a proposal to make Statutory Rules), shall not apply to any such regulations or order as aforesaid. [893]

*The Minister.*—The Minister of Health (s. 1 (1)).

*Rules Publication Act, 1893, s. 1.*—18 Halsbury's Statutes 1016. That Act is repealed by the Statutory Instruments Act, 1946, s. 12, *post*, which will come into operation on a date to be appointed by Order in Council (see s. 10 thereof, *post*).

### *Supplementary Provisions*

**76. Consequential amendment and repeal of enactments.**—As from the appointed day, the enactments specified in Part I of the Tenth Schedule to this Act shall be amended to the extent therein specified, and the enactments specified in Part II of the said Schedule shall be repealed to the extent specified in the third column of that Part, such amendment and repeal being required in consequence of the passing of this Act or for the purpose of bringing the said enactments into conformity with the provisions of this Act. [894]

*Appointed day.*—By S. R. & O., 1947, No. 983, issued while this volume was in the press stage, this section is brought into force as from July 1, 1947, so far as it relates to such of the amendments in Sched. X, *post*, as are consequential on the transfer of functions and other changes effected by s. 49, *ante*. For details of the amendments, see Articles 2 and 3 of S. R. & O., 1947, No. 983. As to the residue, see note to s. 3, p. 278, *ante*.

**77. Amendment and repeal of local Acts and charters.**—(1) Where at the passing of this Act there is in force a local or private Act or charter containing

provisions appearing to the Minister either to be inconsistent with any of the provisions of this Act or to be redundant in consequence of the passing of this Act, the Minister may by order make such alterations, whether by amendment or by repeal, in the local or private Act or charter as appear to him to be necessary for the purpose of bringing its provisions into conformity with the provisions of this Act, or for the purpose of removing redundant provisions, as the case may be. [895]

(2) Any provision of a local or private Act or charter defining or restricting the objects of any hospital to which section six of this Act applies or the purposes for which any property transferred to the Minister or the Board of Governors of a teaching hospital by virtue of this Act may be used shall cease to have effect. [896]

*The Minister.*—The Minister of Health (s. 1 (1)).

*Definitions.*—For definition of "hospital," "property" and "teaching hospital," see s. 79 (1), *post*.

**78. Provision for winding up certain bodies.**—(1) The following bodies, that is to say—

- (a) visiting committees constituted under section seven of the Mental Treatment Act, 1930, joint visiting committees constituted under section two hundred and fifty-three of the Lunacy Act, 1890, joint mental hospital boards constituted under any local Act, committees constituted under section twenty-eight of the Mental Deficiency Act, 1913, for the care of the mentally defective and joint boards and joint committees constituted under section twenty-nine of that Act;
- (b) joint boards constituted under the Public Health Act, 1936, or any enactment repealed by that Act, solely for the purpose of exercising functions which cease to be exercisable in consequence of this Act or are transferred to a local health authority or other person by this Act; and
- (c) governing bodies of voluntary hospitals transferred to the Minister by virtue of this Act whose functions wholly cease in consequence of this Act;

shall as from the appointed day be dissolved, and regulations may make such provision, supplementary to the provisions of this Act, as may be necessary for the purpose of winding up the affairs of those bodies. [897]

(2) Without prejudice to the provisions of the last foregoing subsection, regulations may provide that any rights or liabilities of any of the bodies referred to in paragraphs (a) and (b) of the last foregoing subsection under any enactment, scheme or contract providing for the payment of, or contribution towards, superannuation benefits in respect of officers employed by those bodies, being rights and liabilities arising in respect of officers who have ceased to be so employed before the appointed day, shall as from that day be transferred to the local authorities by whom the said bodies were appointed or, in the case of joint committees or joint boards, be apportioned among the constituent authorities of those committees or boards. [898]

*Mental Treatment Act, 1930, s. 7.*—23 Halsbury's Statutes 163.

*Lunacy Act, 1890, s. 253.*—11 Halsbury's Statutes 103.

*Mental Deficiency Act, 1913, s. 28.*—*Ibid.* 176.

*Public Health Act, 1936.*—29 Halsbury's Statutes 322.

*Appointed day.*—See s. 79 (1), *post*. Though no day has been appointed at the time of going to press, the Prime Minister said in the House of Commons on June 9, 1947, that it was hoped to bring the Act, with the National Insurance schemes, into full operation by July 5, 1948 (see 438 H. of C. Official Report 705).

*Definitions.*—For definition of "officers" and "regulations," see s. 79 (1), *post*.

*Regulations.*—As to regulations, see s. 75, *ante*.

**79. Interpretation.**—(1) In this Act unless the context otherwise requires, the following expressions have the meanings hereby assigned to them—

“appointed day” means such day as His Majesty may by Order-in-Council appoint, and different days may be appointed for the purposes of different provisions of this Act and for the repeal or amendment of different enactments by this Act ;

“certified midwife” means a person certified under the Midwives Acts, 1902 to 1936 ;

“dental practitioner” means a person registered in the dentists register under the Dentists Acts, 1878 to 1923 ;

“dispensing optician” means a person having the prescribed qualifications for the fitting and supply of optical appliances ;

“equipment” includes any machinery, apparatus or appliance, whether fixed or not, and any vehicle ;

“the governing body”, in relation to any voluntary hospital, includes any body, whether corporate or unincorporate, having the control and management of the hospital or any part thereof or otherwise carrying on the business of the hospital or any part thereof ;

“hospital” means any institution for the reception and treatment of persons suffering from illness or mental defectiveness, any maternity home, and any institution for the reception and treatment of persons during convalescence or persons requiring medical rehabilitation, and includes clinics, dispensaries and out-patient departments maintained in connection with any such institution or home as aforesaid, and “hospital accommodation” shall be construed accordingly ;

“illness” includes mental illness and any injury or disability requiring medical or dental treatment or nursing ;

“insurance committee” means an insurance committee constituted under the National Health Insurance Act, 1936 ;

“local authority” means the council of a county or county borough, the Common Council of the City of London, the council of a metropolitan borough and the council of a county district, and also includes—

(a) any joint board constituted under the Public Health Act, 1936, or under the Public Health (London) Act, 1936, or any enactment repealed by those Acts, or any port health authority constituted under those Acts or under any Act passed before those Acts ;

(b) any visiting committee constituted under section seven of the Mental Treatment Act, 1930, any joint visiting committee constituted under section two hundred and fifty-three of the Lunacy Act, 1890, any joint mental hospital board constituted under any local Act, any committee constituted under section twenty-eight of the Mental Deficiency Act, 1913, and any joint board or joint committee constituted under section twenty-nine of that Act ;

(c) the King Edward VII Welsh National Memorial Association ;

“local education authority” has the same meaning as in the Education Act, 1944 ;

“medical” includes surgical ;

“medical practitioner” means a registered medical practitioner ;

“medicine” includes any prescribed chemical re-agent ;

“officer” includes servant ;

“ophthalmic optician” means a person having the prescribed qualifica-

- tions in optics, including the measurement of errors of refraction, in orthoptics and in the fitting and supply of optical appliances ;
- "patient" includes an expectant or nursing mother and a lying-in woman ;
- "prescribed" means prescribed by regulations made by the Minister under this Act ;
- "property" includes rights ;
- "registered nurse" means a nurse registered in the register of nurses established under the Nurses Registration Act, 1919 ;
- "registered pharmacist" means a pharmacist registered in the register of pharmaceutical chemists or the register of chemists and druggists ;
- "regulations" means regulations made by the Minister under this Act ;
- "superannuation benefits" means annual superannuation allowances, gratuities and periodical payments payable on retirement, death or incapacity, and similar benefits ;
- "teaching hospital" means a hospital or group of hospitals designated by the Minister as a teaching hospital by an order in force under Part II of this Act ;
- "university" includes a university college ;
- "voluntary" means not carried on for profit and not provided by a local or public authority. [899]

(2) References in this Act to the purposes of a hospital shall be construed as referring both to the general purposes of the hospital and to any specific purpose of the hospital. [900]

(3) Any reference in this Act to any enactment shall be construed as a reference to that enactment as amended by any subsequent enactment including this Act. [901]

*Appointed day.*—See s. 79 (1), *ante*. Though no day has been appointed at the time of going to press, the Prime Minister said in the House of Commons on June 9, 1947, that it was hoped to bring the Act, with the National Insurance schemes, into full operation by July 5, 1948 (see 438 H. of C. Official Report 705).

*Midwives Acts, 1902 to 1936.*—For the Acts contained in the Midwives Acts, 1902 to 1936, see notes to s. 23, *ante*.

*Dentists Acts, 1878 to 1923.*—The Dentists Acts, 1878 to 1923, are the Dentists Act, 1878 (11 Halsbury's Statutes 699) ; the Dentists Act, 1921 (*ibid.* 763) ; and the Dentists Act, 1923 (*ibid.* 776).

*National Health Insurance Act, 1936.*—29 Halsbury's Statutes 1064.

*Public Health Act, 1936.*—*Ibid.* 309.

*Public Health (London) Act, 1936.*—30 Halsbury's Statutes 437.

*Mental Treatment Act, 1930, s. 7.*—23 Halsbury's Statutes 163.

*Lunacy Act, 1890, s. 253.*—11 Halsbury's Statutes 103.

*Mental Deficiency Act, 1913, ss. 28, 29.*—*Ibid.* 176, 177.

*Education Act, 1944.*—37 Halsbury's Statutes 123. For "local education authority," see s. 114 of that Act (*ibid.* 217).

*Nurses Registration Act, 1919.*—11 Halsbury's Statutes 748.

**80. Short title and extent.**—(1) This Act may be cited as the National Health Service Act, 1946. [902]

(2) This Act, except subsection (2) of section sixty-seven and the amendment made by the Ninth Schedule in subsection (3) of section eight of the Criminal Lunatics Act, 1884, shall not extend to Scotland or to Northern Ireland. [903]

(3) The Minister may by order direct that this Act shall, subject to such exceptions, adaptations and modifications, as may be specified in the order, extend to the Isles of Scilly, but except as so applied this Act shall not extend to the said Isles.

The Minister may by any such order amend or repeal any provisions contained in the Isles of Scilly Orders, 1927 to 1943. [904]



*Criminal Lunatics Act, 1884, s. 8 (3).—13 Halsbury's Statutes 358.*

*The Minister.*—The Minister of Health (s. 1 (1)).

*Extension to the Isles of Scilly.*—The Isles of Scilly (National Health Service) Order, 1946 (S. R. & O., 1946, No. 2240), extends Parts I and II, *ante*, and Schedules I to III, *post*, to the Isles of Scilly.

## SCHEDULES

### Section 2

### FIRST SCHEDULE

#### CENTRAL COUNCIL AND ADVISORY COMMITTEES

##### *Constitution of Central Council*

1. The number of members of the Central Council shall be forty-one of whom six shall be the persons for the time being holding the offices of the President of the Royal College of Physicians of London, the President of the Royal College of Surgeons of England, the President of the Royal College of Obstetricians and Gynaecologists, the Chairman of the Council of the British Medical Association, the President of the General Medical Council and the Chairman of the Council of the Society of Medical Officers of Health, respectively; and of the remaining thirty-five members, who shall be appointed by the Minister—

- (a) fifteen shall be medical practitioners of whom two shall be selected for their knowledge of mental illness and mental defectiveness;
- (b) five shall be persons, not being medical practitioners, with experience in hospital management;
- (c) five shall be persons, not being medical practitioners, with experience in local government;
- (d) three shall be dental practitioners;
- (e) two shall be persons with experience in mental health services;
- (f) two shall be registered nurses;
- (g) one shall be a certified midwife; and
- (h) two shall be registered pharmacists;

and before appointing any of the persons specified in sub-paragraphs (a) to (h), respectively, the Minister shall consult with such organisations as he may recognise as representative of those persons.

##### *Supplementary Provisions*

2. Regulations may make provision with respect to the appointment, tenure of office and vacation of office of the members of the Central Council and of any standing advisory committee constituted under section two of this Act and for the making of such payments as may be prescribed to such members and to members of any committee or sub-committee set up under paragraph 4 of this Schedule in respect of any loss of remunerative time or any travelling or subsistence expenses.

3. The Minister shall appoint a secretary to the Central Council and to each standing advisory committee, and the Central Council and any standing advisory committee may also appoint a secretary to the Council or the committee, as the case may be, who shall act jointly with the secretary appointed by the Minister.

4. The Central Council may appoint such committees, and any standing advisory committee may appoint such sub-committees, as they think fit, to consider and report upon questions referred to them by the Central Council or standing advisory committee, as the case may be, and any such committee or sub-committee may include persons who are not members of the Central Council or standing advisory committee, as the case may be.

5. The Central Council and any standing advisory committee shall elect one of the members of the Council or committee, as the case may be, to be chairman of the Council or committee, and shall have power to regulate their own procedure.

6. The proceedings of the Central Council or of any standing advisory committee shall not be invalidated by any vacancy in the membership of the Council or committee or by any defect in the appointment or qualification of any member thereof.

*Effect of Schedule.*—This Schedule provides for the constitution of the Central Health Services Council which is to be set up under s. 2, *ante*, and of the standing advisory committees which the Minister is empowered to constitute under that section.

*The Minister.*—The Minister of Health (s. 1 (1)).

*Definitions.*—For definition of “certified midwife,” “dental practitioner,” “medical practitioner,” “prescribed,” “registered nurse,” “registered pharmacist” and “regulations,” see s. 79 (1), *ante*.

*Regulations.*—As to regulations, see s. 75, *ante*.

*Payments to Central Council and standing advisory committees.*—As to the payment of the expenses of the Central Council and of any standing advisory committee, see s. 54 (4), (6), *ante*. As to payments in respect of loss of remunerative time or for travelling or subsistence expenses to any body constituted under this Act, see s. 54 (5), (6), *ante*.

## Section 10.

## SECOND SCHEDULE

### ACQUISITION OF HOSPITAL PROPERTY OTHER THAN LAND

1. Where under section ten of this Act, in connection with the acquisition of any hospital, the Minister proposes to acquire any equipment, furniture or other moveable property used in or in connection with the hospital premises, he may, at any time after the acquisition of the hospital (in the case of acquisition by agreement) or at any time after the service of the notice to treat (in the case of the compulsory acquisition of a hospital), serve a notice on the owner of the property specifying the property proposed to be acquired, and specifying the time within which and the manner in which any objection to such acquisition may be made.

2. If any objection is duly made, the Minister shall afford to the said owner an opportunity of appearing before and being heard by a person appointed by him for the purpose, and after considering any such objection and the report of the person so appointed by him, the Minister shall either withdraw the notice aforesaid or serve upon the owner a notice confirming that notice.

3. The property with respect to which a notice is served under paragraph 1 of this Schedule and is not withdrawn shall—

- (a) if no objection is duly made to the notice, vest in the Minister at the expiration of the time for making such an objection ;
- (b) if such an objection is duly made and the notice is confirmed by a notice served under the last foregoing paragraph, vest in the Minister on the service of the last mentioned notice ;

and shall in each case vest free of any mortgage, pledge, lien or similar obligation.

4. Where any property is acquired in accordance with this Schedule, there shall be paid by way of compensation to the owner of the property concerned a sum equal to the price which he might reasonably have been expected to have obtained upon a sale of the property effected by him immediately before the acquisition of the property by the Minister, and any dispute as to the amount of such compensation shall be determined by arbitration, and the compensation shall accrue due at the time when the property vested in the Minister.

5. Where property in respect of which compensation is payable as aforesaid was, immediately before the acquisition thereof by the Minister, in the possession of some person by virtue of a hire purchase agreement, that person may, by a notice served on the Minister, make a claim to have apportioned to him such part of the compensation as may be specified in his claim ; and in default of agreement between the parties the claim shall be determined by arbitration and the arbitrator may apportion the compensation between the owner and the other person in such manner as appears to him to be just.

6. Any such compensation shall carry interest, as from the time when it accrues due until payment, at such rate as the Treasury may from time to time by order prescribe.

7. Where any sum by way of compensation is paid in accordance with this Schedule in respect of any property and, at the time when the compensation accrues due, the property is subject to any mortgage, pledge, lien or similar obligation, the sum so paid shall be deemed to be comprised in that mortgage, pledge, lien or other obligation. [906]

*Effect of Schedule.*—This Schedule contains the provisions in accordance with which, in cases where the Minister acquires a hospital as defined in s. 9, *ante*, he may also acquire moveable property used in connection with the hospital premises.

*The Minister.*—The Minister of Health (s. 1 (1)).

*Definitions.*—For definitions of “equipment,” “hospital” and “property,” see s. 79 (1), *ante*.

*Notices.*—As to notices, see s. 74, *ante*.

## Section 11.

## THIRD SCHEDULE

### REGIONAL HOSPITAL BOARDS, HOSPITAL MANAGEMENT COMMITTEES AND BOARDS OF GOVERNORS OF TEACHING HOSPITALS

#### PART I

#### *Constitution of Regional Hospital Boards*

A Regional Hospital Board shall consist of a chairman appointed by the Minister and such other members so appointed as the Minister thinks fit, and the members shall include—

- (a) persons appointed after consultation with the university with which the provision of hospital and specialist services in the area of the Board is to be associated ;
- (b) persons appointed after consultation with such organisations as the Minister may recognise as representative of the medical profession in the said area or the medical profession generally ;
- (c) persons appointed after consultation with the local health authorities in the said area ; and
- (d) persons appointed after consultation with such other organisations as appear to the Minister to be concerned ;

and the original members of the Board shall also include persons appointed after consultation with such organisations as the Minister may recognise as representative of voluntary hospitals in the said area.

Before making appointments to fill vacancies, the Minister shall also consult the Board.

At least two of the members of the Board shall be persons with experience in mental health services. [907]

#### PART II

#### *Constitution of Hospital Management Committees*

A Hospital Management Committee shall consist of a chairman appointed by the Regional Hospital Board for the area in which the hospital or group of hospitals is situated and such other members so appointed as the Board thinks fit, and the members shall include—

- (a) persons appointed after consultation with any local health authority whose area comprises the area or any part of the area served by the hospital or group ;
- (b) persons appointed after consultation with any Executive Council (constituted under Part IV of this Act) whose area comprises the area or any part of the area served by the hospital or group ;
- (c) persons appointed after consultation with the senior medical and dental staff employed at the hospital or the hospitals of the group, as the case may be ; and
- (d) persons appointed after consultation with such other organisations as appear to the Board to be concerned ;

and, in the case of a Committee appointed before the appointed day for a voluntary hospital or for a group comprising any voluntary hospital, the original members of the Committee shall also include persons appointed after consultation with the governing body of any voluntary hospital concerned.

Before making appointments to fill vacancies, the Board shall also consult the Committee. [908]

#### PART III

#### *Constitution of Boards of Governors of teaching hospitals*

The Board of Governors of a teaching hospital shall consist of a chairman appointed by the Minister and such number of other members so appointed as the Minister thinks fit, and of those members—

- (a) not more than one-fifth shall be nominated by the university with which the hospital is associated ;
- (b) not more than one-fifth shall be nominated by the Regional Hospital Board for the area in which the hospital is situated ;
- (c) not more than one-fifth shall be nominated by the medical and dental teaching staff of the hospital ; and
- (d) other persons shall be appointed after consultation with such local health authorities and other organisations as appear to the Minister to be concerned, including, in the case of the original members of the Board of Governors of a teaching hospital designated before the appointed day, the governing body of any voluntary hospital comprised or to be comprised in the teaching hospital. [909]

## PART IV

### *Supplementary provisions*

1. Regional Hospital Boards and Boards of Governors of teaching hospitals and Hospital Management Committees shall be bodies corporate with perpetual succession and a common seal and power to hold land without licence in mortmain.

2. Regulations may make provision—

- (a) with respect to the appointment, tenure of office and vacation of office of the members of the bodies constituted under the foregoing provisions of this Schedule ;
- (b) with respect to the appointment of committees consisting wholly or partly of members of those bodies and the delegation of functions to such committees ;
- (c) for the making of such payments as may be prescribed to members of those bodies or committees in respect of any loss of remunerative time or, if the special circumstances of the body or committee concerned appear to the Minister to justify it, in respect of any travelling or subsistence expenses ;
- (d) with respect to the procedure of those bodies or committees.

3. The proceedings of any body or committee constituted under the foregoing provisions of this Schedule shall not be invalidated by any vacancy in the membership of the body or committee or by any defect in the appointment or qualification of any member thereof.

4. It is hereby declared, for the avoidance of doubt, that a member or officer of any such body or committee is not, by reason of his membership or office, rendered incapable of being elected, or of sitting and voting, as a Member of the House of Commons. [910]

*Effect of Schedule.*—This Schedule provides for the constitution of Regional Hospital Boards, Hospital Management Committees and Boards of Governors of teaching hospitals which are to be set up under s. 11, *ante*.

*Appointed day.*—See s. 79 (1), *ante*. Though no day has been appointed at the time of going to press, the Prime Minister said in the House of Commons on June 9, 1947, that it was hoped to bring the Act, with the National Insurance schemes, into full operation by July 5, 1948 (see 438 H. of C. Official Report 705).

*Definitions.*—For definitions of “hospital,” “prescribed,” “regulations” and “teaching hospital,” see s. 79 (1), *ante*.

*Local health authorities.*—Local health authorities are county councils and county borough councils (s. 19 (1)).

*Regional Hospital Areas.*—Fourteen areas have been specified as areas for which Regional Hospital Boards are to be constituted (see the National Health Service (Determination of Regional Hospital Areas) Order, 1946, S. R. & O., 1946, No. 2158, *post*), but the Boards, which must be constituted by a separate order or orders (see s. 11 (2), *ante*), have not been constituted at the time of going to press.

*Regulations.*—As to regulations, see s. 75, *ante*.

*Expenditure of Boards and Committees.*—The approved expenditure of Regional Hospital Boards and Boards of Governors of teaching hospitals will be paid out of moneys provided by Parliament (s. 54 (1), (6)). The expenditure of a Hospital Management Committee will be defrayed by the Regional Hospital Board for the area in which the hospital is situated (s. 54 (2)). As to payments in respect of loss of remunerative time or travelling or subsistence expenses, see s. 54 (5), (6), *ante*.

## Section 19

## FOURTH SCHEDULE

## PROVISIONS AS TO LOCAL HEALTH AUTHORITIES

## PART I

*Joint Boards*

1. A joint board constituted under section nineteen of this Act shall be a body corporate with perpetual succession and a common seal and power to hold land without licence in mortmain.

2. An order constituting such a joint board—

- (a) may, without prejudice to the provisions of section two hundred and ninety-three of the Local Government Act, 1933, and section one hundred and ninety-six of the London Government Act, 1939 (which authorise the application of the provisions of those Acts to joint boards), provide for regulating the appointment, tenure of office and vacation of office of members of the board, for regulating the meetings and proceedings of the board, and for the payment of the expenses of the board by the constituent local health authorities ;
- (b) may provide for the transfer and compensation of officers, the transfer of property and liabilities, and the adjustment of accounts and the apportionment of liabilities ;
- (c) may confer on the board the like powers for the compulsory purchase of land as are exercisable by local health authorities ;
- (d) may provide for the application, with such adaptations as may be specified, of any enactments relating to functions transferred to the board ;
- (e) may contain such other provisions as appear to the Minister to be expedient for enabling the board to exercise their functions ;
- (f) may apply to the board, with any necessary modifications and adaptations, any of the provisions of Part II of this Schedule. [911]

## PART II

*Health Committees*

1. Every local health authority shall establish a health committee, and, subject to the next following paragraph, all matters relating to the discharge of the functions of a local health authority shall stand referred to the health committee, and the authority, before exercising any such functions, shall consider a report of the health committee with respect thereto :

Provided that an authority may dispense with such a report if, in their opinion, the matter is urgent or has been sufficiently considered and reported upon by a divisional executive established under section twenty-two of this Act.

2. The last foregoing paragraph shall not prevent the council of a county or county borough from referring to any committee appointed by them any matter arising out of, and incidental to, their functions as local health authority which, by reason that it relates also to a general service of the council, ought, in the opinion of the council, to be so referred, and the last foregoing paragraph shall not apply to any matter which is so referred :

Provided that, before deciding on a proposal for a reference under this paragraph, the council shall receive and consider a report of the health committee on the proposal.

3. A local health authority may authorise the health committee to exercise on their behalf any of their functions as a local health authority, except the power to borrow money or to levy or issue a precept for a rate.

4. At least a majority of the health committee of a local health authority shall be members of the authority.

5. The minutes of proceedings of the health committee shall be open to the inspection of any local government elector for the area on payment of a fee not exceeding one shilling and any such local government elector may make a copy thereof or extract therefrom.

6. The health committee of a local health authority may, subject to any restrictions imposed by the local health authority, establish such sub-committees as the health committee may determine, and any sub-committee established under this

paragraph shall be constituted in such manner as may, subject to any restrictions imposed by the local health authority, be determined by the health committee, and at least a majority of every sub-committee shall be members of the local health authority or of a local authority for any area forming part of the area of the local health authority.

7. The health committee of a local health authority may, subject to any restrictions imposed by the local health authority, authorise any sub-committee to exercise on their behalf any functions of the health committee. [912]

*Effect of Schedule.*—Part I of this Schedule is to have effect with respect to any joint boards which the Minister constitutes under s. 19 (2), *ante*, for the areas of two or more local health authorities to perform all or any of the functions of those authorities. Part II of the Schedule is, as provided by s. 19 (3), *ante*, to have effect with respect to health committees of local health authorities.

*The Minister.*—The Minister of Health (s. 1 (1)).

*Local health authorities.*—Local health authorities are county councils and county borough councils (s. 19 (1)).

*Definitions.*—For definitions of “officers” and “property,” see s. 79 (1), *ante*.

*Local Government Act, 1933, s. 293.*—26 Halsbury's Statutes 461.

*London Government Act, 1939, s. 196.*—32 Halsbury's Statutes 348.

*Orders.*—As to orders, see s. 75, *ante*.

*Grants to local health authorities.*—As to grants to local health authorities in respect of expenditure incurred in carrying out their functions, see s. 53, *ante*.

Sections 31, 40, 41.

## FIFTH SCHEDULE

### EXECUTIVE COUNCILS

#### *Constitution of Executive Councils*

1. An Executive Council shall consist of a chairman appointed by the Minister and twenty-four other members of whom—

- (a) eight members shall be appointed by the local health authority for the area of the Executive Council;
- (b) four members shall be appointed by the Minister;
- (c) seven members shall be appointed by the Local Medical Committee;
- (d) three members shall be appointed by the Local Dental Committee;
- (e) two members shall be appointed by the Local Pharmaceutical Committee.

#### *Supplementary Provisions*

2. Every Executive Council shall be a body corporate with perpetual succession and a common seal and with power to hold land without licence in mortmain:

Provided that an Executive Council shall not acquire land except with the consent of the Minister.

3. The Minister may make regulations—

- (a) with respect to the appointment, tenure of office and vacation of office of the members of an Executive Council;
- (b) with respect to the appointment of committees consisting wholly or partly of members of the Council and the delegation of functions to such committees;
- (c) for the making of such payments as may be prescribed to members of the Council or any such committee in respect of any loss of remunerative time or, if the special circumstances of the area of the Council appear to the Minister to justify it, in respect of any travelling or subsistence expenses;
- (d) with respect to the appointment of officers of the Council;
- (e) for payment by an Executive Council of sums, not exceeding such sums as may be prescribed, as subscriptions to the funds of any association of Executive Councils whose objects are approved by the Minister, and for the payment at the prescribed rates of any expenses reasonably incurred by representatives in attending meetings of any such association;
- (f) with respect to the procedure of the Council or any such committee.

4. If the Local Medical Committee, the Local Dental Committee or the Local Pharmaceutical Committee fail within such period as the Minister may determine

to appoint any member of the Executive Council whom they are required to appoint, the appointment shall be made by the Minister.

5. The proceedings of an Executive Council or any such committee shall not be invalidated by any vacancy in the membership of the Council or committee or by any defect in the appointment or qualification of any member thereof.

6. It is hereby declared, for the avoidance of doubt, that a member or officer of any such Council or committee is not, by reason of his membership or office, rendered incapable of being elected, or of sitting and voting, as a Member of the House of Commons. [913]

*Effect of Schedule.*—This Schedule provides for the constitution of Executive Councils which, as provided by s. 31 (1), *ante*, are to be constituted for the area of every local health authority. Where, however, the Minister provides for the constitution of a single Executive Council for the areas of two or more authorities, the provisions of the Schedule in relation to that Council are to be modified as set out in s. 31 (2), *ante*. For cases in which the Minister has so provided, see S. R. & O., 1947, Nos. 646, 930 and 1180 (see also p. 299, *ante*).

*Constitution of Executive Councils.*—See the National Health Service (Executive Councils) Regulations, 1947 (S. R. & O., 1947, No. 889).

*Local Medical, Dental and Pharmaceutical Committees.*—As to these Committees, see s. 32, *ante*.

*Local health authorities.*—Local health authorities are county councils and county borough councils (s. 19 (1)).

*Regulations.*—As to regulations, see s. 75, *ante*.

*Payments to Executive Councils.*—As to the making of payments to Executive Councils out of moneys provided by Parliament, see s. 54 (3), (6), *ante*. As to the making of payments to members of a Council in respect of loss of remunerative time or travelling or subsistence expenses, see s. 54 (5), (6), *ante*.

## Section 34

## SIXTH SCHEDULE

### MEDICAL PRACTICES COMMITTEE

1. The Medical Practices Committee shall consist of a chairman, who shall be a medical practitioner, and eight other members of whom six shall be medical practitioners. Of the said six medical practitioners at least five shall be persons actively engaged in medical practice.

2. The chairman and members shall be appointed by the Minister after consultation with such organisations as the Minister may recognise as representative of the medical profession.

3. The Minister may make regulations—

- (a) with respect to the appointment, tenure of office and vacation of office of the members of the Committee ;
- (b) for the payment to members of the Committee of remuneration or travelling and subsistence allowances at the prescribed rates.

4. The Minister may provide the services of such officers as the Committee may require.

5. The proceedings of the Committee shall not be invalidated by any vacancy in the membership of the Committee or by any defect in the appointment or qualification of any members thereof. [914]

*Effect of section.*—This Schedule provides for the constitution of the Medical Practices Committee to be set up under s. 34 (2), *ante*.

*The Minister.*—The Minister of Health (s. 1 (1)).

*Definitions.*—For definitions of “medical practitioner,” “officer” and “regulations,” see s. 79 (1), *ante*.

*Regulations.*—As to regulations, see s. 75, *ante*.

*Functions and expenses of the Medical Practices Committee.*—For the functions of the Medical Practices Committee, see ss. 34, 35 (9), (10), (11), 37. The expenses of the Committee as determined by the Minister with Treasury approval and any prescribed payments in respect of loss of remunerative time or any travelling or subsistence expenses payable to members of the Committee will be paid out of moneys provided by Parliament (s. 54 (4), (5), *ante*).

## Section 42

## SEVENTH SCHEDULE

### CONSTITUTION OF TRIBUNAL

1. The Tribunal shall consist of a chairman and two other members.

2. The chairman shall be a practising barrister or solicitor of not less than ten years' standing appointed by the Lord Chancellor.



3. One of the other members shall be a person appointed by the Minister after consultation with such associations of Executive Councils as the Minister may recognise as representative of Executive Councils.

4. The other member (hereinafter referred to as the "practitioner member") shall be one of a panel of six persons who shall be appointed by the Minister, after consultation with such organisations as the Minister may recognise as representative of the several professions concerned, and shall consist of a medical practitioner, a dental practitioner, a registered pharmacist, a medical practitioner practising as an oculist, an ophthalmic optician and a dispensing optician, and the practitioner member shall, for the purpose of the investigation of the case of any person, be such one of the six persons aforesaid as belongs to the same profession as the person whose case is being investigated.

5. If any of the members of the Tribunal is unable to act in any case, a deputy may be appointed in like manner and after the like consultations as in the case of the appointment of the member in question and, if the member was required to possess professional qualifications, the deputy shall possess the like qualifications.

#### *Supplementary provisions*

6. Regulations may make provision—

- (a) with respect to the appointment, tenure of office and vacation of office of members of the Tribunal ;
- (b) for the payment to members of the Tribunal of remuneration or subsistence allowances and travelling allowances at the prescribed rates ;
- (c) with respect to the appointment of officers of the Tribunal. [915]

*Effect of Schedule.*—This Schedule provides for the constitution of "the Tribunal" which, as provided by s. 42 (1), *ante*, is to be constituted for purposes relating to the disqualification of practitioners providing services under Part IV of the Act, *ante*.

*The Minister.*—The Minister of Health (s. 1 (1)).

*Definitions.*—For definitions of "dental practitioner", "dispensing optician", "medical practitioner", "ophthalmic optician", "registered pharmacist" and "regulations", see s. 79 (1), *ante*.

*Regulations.*—As to regulations, see s. 75, *ante*.

*Expenses of the Tribunal.*—The expenses of the Tribunal as determined by the Minister with Treasury approval and any prescribed payments in respect of loss of remunerative time and any travelling or subsistence expenses payable to members of the Tribunal will be paid out of moneys provided by Parliament (s. 54 (4), (5)).

#### Section 49

#### EIGHTH SCHEDULE

#### ENACTMENTS RELATING TO FUNCTIONS TRANSFERRED FROM BOARD OF CONTROL TO MINISTER

##### *The Lunacy Act, 1890*

Subsection (6) of section thirty-nine.

Subsection (4) of section fifty-one.

Subsection (3) of section two hundred and four.

The whole of Part VIII of the Lunacy Act, 1890, except section two hundred and twenty-one, so far as it relates to the power of the Board of Control to recommend the revocation or non-renewal of a licence, and sections two hundred and twenty-three and two hundred and twenty-eight.

Subsection (4) of section three hundred and thirty-two.

##### *The Lunacy Act, 1891*

Section twelve.

##### *The Mental Deficiency Act, 1913*

Subsection (1) of section three.

Subsection (2) of section five.

Subsection (3) of section sixteen.

Section twenty-one.

Paragraphs (b), (c), so far as it relates to certification and approval, and (f) of subsection (1) of section twenty-five.

Paragraph (h) of section thirty.

Section thirty-six.

Subsection (1) of section forty-nine.

Subsection (1) of section fifty.

Section fifty-eight.

### *The Mental Treatment Act, 1930*

Subsection (1) and paragraph (a) of subsection (3) of section one.

Paragraph (iii) of subsection (1) and subsections (3), (9) and (17) of section five.  
[916]

*Effect of Schedule.*—This Schedule specifies the enactments, relating to those functions of the Board of Control which are on the appointed day transferred, as provided by s. 49 (1), *ante*, to the Minister.

*Lunacy Act, 1890, ss. 39 (6), 51 (4), 204 (3), Part VIII, s. 332 (4).*—11 Halsbury's Statutes 35, 40, 88, 90–98, 127.

*Lunacy Act, 1891, s. 12.*—*Ibid.* 146.

*Mental Deficiency Act, 1913, ss. 3 (1), 5 (2), 16 (3), 21, 25 (1) (b), (c), (f), 30 (h), 36, 49 (1), 50 (1), 58.*—*Ibid.* 162, 163, 171, 173, 175, 179, 182, 187, 188, 191.

*Mental Treatment Act, 1930, ss. 1 (1), (3) (a), 5 (1) (iii), (3), (9), (17).*—23 Halsbury's Statutes 154, 157–161.

Sections 49, 50

## NINTH SCHEDULE

### AMENDMENT AND REPEAL OF ENACTMENTS RELATING TO PERSONS OF UNSOUND MIND AND MENTAL DEFECTIVES

#### PART I

#### AMENDMENTS

##### *General Amendments*

In all enactments relating to persons of unsound mind and mental defectives and in any documents issued thereunder references to a mental hospital shall be construed as references to a hospital vested in the Minister and designated by him as a mental hospital.

### *The Criminal Lunatics Act, 1884*

47 & 48 Vict. c. 64

In subsection (2) of section seven for the words "asylum or place of confinement for persons of unsound mind" there shall be substituted the words "mental hospital"; for the words "and he shall be deemed to be a rate-aided person of unsound mind" there shall be substituted the words "and shall be deemed, for the purposes of the Lunacy and Mental Treatment Acts, 1890 to 1930, as amended by the National Health Service Act, 1946, to be a summary reception order made under section sixteen of the Lunacy Act, 1890, as so amended".

In section eight, for subsection (2) there shall be substituted the following subsection:—

"(2) If it is certified by a legally qualified medical practitioner that a criminal lunatic, who is about to be absolutely discharged or whose term of penal servitude or imprisonment is about to determine, is of unsound mind and unfit for removal to a mental hospital, an order made by a justice under this Act may provide for his detention in any asylum or place in which a criminal lunatic may be detained, and he shall be deemed to have been sent to that asylum or place in pursuance of a summary reception order made under section sixteen of the Lunacy Act, 1890, as amended by the National Health Service Act, 1946, and the Lunacy and Mental Treatment Acts, 1890 to 1930, as amended by the National Health Service Act, 1946, shall apply as if the asylum or place were a mental hospital, and the council of supervision or other person having control thereof were a Hospital Management Committee".

For subsection (3) of the said section there shall be substituted the following subsection:—

"(3) In any case where a person for whose detention an order has been made under the last foregoing section is ordinarily resident in Scotland or Northern

Ireland, the justice making the order shall report the case to a Secretary of State, and thereupon a Secretary of State may, by warrant, direct the removal of such person to Scotland or Northern Ireland, as the case may be ”.

In section nine, in paragraphs (1) and (3) for the words “ committee of visitors ”, there shall be substituted the words, “ Hospital Management Committee ”, and the words in paragraph (3) from “ and the costs ” to the end of the paragraph shall be omitted.

In section ten, in subsection (1), the words from “ and the costs of maintenance ” to the end of the subsection shall be omitted ; and in subsection (3), the words from the beginning of the subsection to “ is detained ” shall be omitted.

*The Lunacy Act, 1890*

53 & 54 Vict. c. 5

Throughout the Act, subject to any specific amendment made by a subsequent provision of this Schedule, for references to the visitors of a mental hospital and the visiting committee of a mental hospital there shall be substituted respectively references to members of the Hospital Management Committee of a mental hospital and to such a Committee.

Throughout the Act, subject to any specific amendment made by a subsequent provision of this Schedule, the word “ rate-aided ” shall be omitted.

In section four the words “ a rate-aided person or ” shall be omitted.

In section eight, in subsection (1), the words “ as a private patient ” shall be omitted.

For sections fourteen and fifteen, there shall be substituted the following sections :—

“ 14.—(1) If a duly authorised officer of the local health authority—

- (a) has reasonable ground for believing that a person in the area of the authority is a person of unsound mind and a proper person to be sent to a mental hospital ; and
- (b) is satisfied that he is not under proper care and control, or that there are no relatives or friends who intend and are able to take proceedings by petition for a reception order under the foregoing provisions of this Act ;

he shall, within three days, give notice thereof to a justice having jurisdiction in the place where the said person is.

(2) A justice, upon receiving such a notice, shall by order require the officer giving the notice to bring the said person before him or some other justice having such jurisdiction as aforesaid, at such time within three days of the receipt of the notice and at such place as may be specified in the order.

15.—(1) A duly authorised officer of the local health authority or any constable who has reasonable ground for believing that any person wandering at large in the area of the authority is a person of unsound mind, shall immediately apprehend and take the said person, or cause him to be apprehended and be taken, before a justice.

(2) Any justice, upon the information upon oath of any person that a person wandering at large within the limits of his jurisdiction is of unsound mind, may by order require any constable or duly authorised officer of the local health authority for the area where the said person is, to apprehend him and bring him before the justice making the order, or any justice having jurisdiction where the said person is ”.

In section sixteen for the words “ relieving officer, overseer ” there shall be substituted the word “ officer ”.

In section seventeen the words “ whether a rate-aided person or not ” shall be omitted.

For section twenty there shall be substituted the following section :—

“ 20. If a duly authorised officer of the local health authority or any constable is satisfied that it is necessary for the public safety or the welfare of a person alleged to be of unsound mind with regard to whom it is his duty to take any proceedings under this Act, that the said person should, before any such

proceedings are taken, be placed under care and control, the officer or constable may remove the said person to any hospital or part of a hospital vested in the Minister (whether a mental hospital or not) which is designated by the Minister for the purposes of this section, and the person in charge of the said hospital or part shall receive and detain the said person therein, but no person shall be detained under this section for more than three days ”.

In section twenty-one, in subsection (1), for the words “ the workhouse of the union in which the person of unsound mind is ” there shall be substituted the words “ any hospital or part of a hospital designated for the purposes of the last foregoing section ” and for the words “ in that workhouse ” there shall be substituted the word “ therein ” ; and in subsection (3) the words “ in a workhouse ” and the words from “ after which ” to the end of the subsection shall be omitted.

After section twenty-one the following section shall be inserted :—

“ 21A. Where any person is detained, whether under section twenty of this Act or under the last foregoing section, in any hospital designated for the purposes of the said section twenty, and while he is so detained the medical officer of the hospital certifies that he is of unsound mind and that it is expedient for his welfare that he should be detained at the hospital for a further period, he may be so detained for a period not exceeding fourteen days from the date of the certificate ”.

In section thirty-four, in subsection (1) for the words “ a private patient ” there shall be substituted the words “ an order made on petition ”.

In section thirty-six, for the word “ workhouse ” there shall be substituted the words “ hospital or part of a hospital designated for the purposes of section twenty of this Act ”.

In section thirty-nine, in subsection (1) for the words “ reception of a private patient ” there shall be substituted the words “ reception of a patient under a reception order made on petition ” ; in subsection (3) for the words “ their immediate jurisdiction ” there shall be substituted the words “ the immediate jurisdiction of the Minister ” ; in subsection (6) for the words “ Board of Control ” where they first occur, there shall be substituted the word “ Minister ”, and for the words from “ they think fit ” to the end of the subsection there shall be substituted the words “ the Minister thinks fit ” ; and in subsections (7) and (8) the word “ private ” shall be omitted.

In section forty, in subsection (3), for the word “ workhouse ” there shall be substituted the words “ hospital or part of a hospital designated for the purposes of section twenty of this Act ”.

In section forty-one, in subsection (1), the words “ if written by a private patient ” shall be omitted.

In section forty-two, in subsection (1) the words “ unless there is no private patient therein ”, and the word “ private ”, in the second and third places where it occurs in subsection (1) and where it occurs in subsection (2) shall be omitted.

In section fifty-one, in subsection (4) for the words “ Board of Control or visitors fix ” there shall be substituted the words “ Minister may fix ”.

In section fifty-five, in subsection (2) for the word “ charge ” there shall be substituted the words “ expense of his maintenance ” ; in subsection (3) the word “ private ”, where it last occurs, shall be omitted ; and for subsection (6) there shall be substituted the following subsection :—

“ (6) Where any patient detained in a registered hospital in pursuance of a contract with a Regional Hospital Board is permitted under this section to be absent upon trial, two members of the managing committee of the hospital may make an allowance to the patient during the period of his absence not exceeding the amount payable under the contract for his maintenance in the hospital and the allowance shall either be paid to him or for his benefit as the members of the managing committee may direct ”.

In section fifty-seven, in subsection (1) the words from “ the application has been approved ” to “ and that ” shall be omitted ; and in subsection (2) for the words “ the authority liable for the maintenance of the person of unsound mind ” there shall be substituted the words “ the Hospital Management Committee ”, after the word “ shall ” there shall be inserted the words “ if the Committee considers it reasonable so to do ”, and for the words from “ such authority ” to “ delivered over ” there shall be substituted the words “ the Committee ”.

For section sixty-one there shall be substituted the following section :—

“ 61. Where a patient is detained in a registered hospital in pursuance of a contract with a Regional Hospital Board, the Board may make an order for the removal of the patient and may direct the mode of removal and on production to the manager of the hospital of a copy of the order he shall forthwith remove the patient or permit him to be removed in accordance with the order ”.

For section sixty-four there shall be substituted the following section :—

“ 64. Any two members of the Hospital Management Committee of a mental hospital may by order authorise the removal of a person of unsound mind to that hospital from any other mental hospital ”.

In section sixty-six for the words from “ any relieving officer ” to “ chargeable ” there shall be substituted the words “ the local health authority for the area where the mental hospital is situated ”.

For section seventy-two, the following section shall be substituted :—

“ 72.—(1) A patient detained in any institution for persons of unsound mind, or under care as a single patient, shall, if he is detained under a reception order made on petition, be discharged on a direction in writing given under his hand—

(a) by the person on whose petition the order was made ; or

(b) if that person is dead or incapable by reason of insanity, absence from England and Wales or otherwise of signing an order for discharge, by the person who made the last payment on account of the patient, or by the appropriate relative.

(2) A private patient detained in any such institution or under such care as aforesaid, other than a person to whom the last foregoing subsection applies, shall be discharged on a direction in writing given under his hand by the person who made the last payment on account of the patient or by the appropriate relative.

(3) In any other case a patient detained in any such institution or under such care as aforesaid shall be discharged on a direction in writing given under his hand by the appropriate relative.

(4) If there is no person qualified to direct the discharge of a patient under this section, or no person able or willing to act, the Board of Control may order his discharge.

(5) In this section the expression “ appropriate relative ” means the husband or wife, or if there is no husband or wife, or the husband or wife is incapable by reason of insanity, absence from England and Wales, or otherwise of signing an order for discharge, the father, or if there is no father, or if he is incapable as aforesaid, the mother, or if there is no mother, or she is incapable as aforesaid, then any one of the next of kin ”.

For section seventy-three there shall be substituted the following section :—

“ 73. Where any patient is detained in a registered hospital in pursuance of a contract with a Regional Hospital Board, the Board may make an order for the discharge of the patient and may direct the mode of discharge, and on production to the manager of the hospital of a copy of the order he shall forthwith discharge the patient or permit him to be discharged in accordance with the order ”.

In section seventy-eight, in subsection (4), the words “ in the case of a private patient ” and “ and in the case of a rate-aided person to the authority liable for his maintenance ” shall be omitted.

In section seventy-nine the words “ shall be no longer chargeable to any union, county or borough, and ” shall be omitted.

In section eighty, in subsection (1) for the words from “ a relieving officer ” to the end of the subsection there shall be substituted the words “ the local health authority ”.

In section eighty-three, in subsection (1) the words “ in the case of a patient not a rate-aided person ” and the words from “ and in the case of ” to the end of the subsection shall be omitted.

In section eighty-five for the words “ master of the workhouse ”, there shall be substituted the words “ person in charge of the hospital or part of the hospital designated for the purposes of section twenty of this Act ” and the word “ master ”, in the second place where it occurs, shall be omitted.

In section one hundred and seventy-seven, in subsection (1), for the words "Board of Control" there shall be substituted the word "Minister".

In section one hundred and ninety-one, in subsections (2) and (3), for the words "the immediate jurisdiction of the Board of Control" there shall be substituted the words "the immediate jurisdiction of the Minister"; and in paragraph (b) of subsection (7) for the words "Board of Control" there shall be substituted the word "Minister", and the words "and not receiving rate-aided patients" shall be omitted.

In section one hundred and ninety-six, in subsection (1) the words "rate-aided patients from other patients, and" shall be omitted.

In section two hundred and three for the word "workhouses" there shall be substituted the words "hospitals or parts of hospitals designated for the purposes of section twenty of this Act".

In section two hundred and four, in subsection (1) the words "or workhouse" shall be omitted; and in subsection (3) for the words "Board of Control" there shall be substituted the word "Minister".

In section two hundred and six, in subsection (3) the words from "and the expenses" to the end of the subsection shall be omitted.

Throughout Part VIII, except in sections two hundred and twenty-one, two hundred and twenty-three and two hundred and twenty-eight, for references to the Board of Control there shall be substituted references to the Minister.

In section two hundred and seventeen, in subsection (1) the words "the secretary of" and the words from "not being a rate-aided person" to the end of the subsection shall be omitted; and in subsection (2) the words "and two shillings and sixpence" shall be omitted.

In section two hundred and nineteen, the word "private", and the words "and to the authority liable for the maintenance of each rate-aided patient" shall be omitted.

In section two hundred and twenty-one, in subsection (1) the words "either by them or" and the words "if granted by any justices" shall be omitted, and after the word "renewed" there shall be inserted the words "or recommend to the Minister that any licence granted by him be revoked or be not renewed" and after the words "Lord Chancellor", where they last occur, there shall be inserted the words "or Minister"; and in subsection (4) after the words "Lord Chancellor" in both places where they occur there shall be inserted the words "or Minister".

In section two hundred and twenty-six, the words "by their secretary" shall be omitted.

In section two hundred and thirty-one, in subsection (1), the words "may depute any one or more members of their body, or" shall be omitted.

In section two hundred and thirty-seven, in subsection (3) the words "with the consent in writing of the Minister of Health" and in subsection (5) the words from "and such statement" to the end of the subsection shall be omitted.

In section two hundred and fifty-eight, in subsection (1), for the words "visiting committee of a mental hospital" there shall be substituted the word "Minister" and the words "with the consent of the local authority by whom they are appointed and of the Minister of Health" shall be omitted; in subsection (2) for the word "committee" there shall be substituted the word "Minister"; and in subsection (3) for the words "a visiting committee" and "the committee" there shall be substituted the words "the Minister".

In section two hundred and fifty-nine, for the words "a visiting committee" and "the visiting committee" there shall be substituted the words "the Regional Hospital Board".

In section two hundred and seventy-five, for subsection (5) there shall be substituted the following subsection:—

"(5) Any patient in a mental hospital may be absent by permission of the manager for a period not exceeding four days".

In section two hundred and eighty-five, in subsection (1), the words "whether a rate-aided person or not" shall be omitted, for the words "guardians of the union" there shall be substituted the words "local health authority", for the word "workhouse" there shall be substituted the words "hospital or part of a hospital designated for the purposes of section twenty of this Act", and the words from "and also" to "effect" shall be omitted.

In section three hundred and fifteen, in subsection (2) for the word "work-



house" there shall be substituted the words "hospital or part of a hospital designated for the purposes of section twenty of this Act".

In section three hundred and twenty, after the words "sending to" there shall be inserted the words "the Minister".

In section three hundred and twenty-four, for the word "workhouse" there shall be substituted the words "hospital or part of a hospital designated for the purposes of section twenty of this Act".

In section three hundred and twenty-five, in subsection (1), for paragraph (c) there shall be substituted the following paragraph:—

"(c) by the secretary of a Regional Hospital Board for an offence by any person employed by the Board".

In section three hundred and twenty-six, for paragraph (c) there shall be substituted the following paragraph:—

"(c) When recovered by the secretary of a Regional Hospital Board, to the treasurer of the Board".

In section three hundred and twenty-seven, the words "other than orders adjudicating as to the settlement of a rate-aided person of unsound mind and providing for his maintenance", shall be omitted.

In section three hundred and twenty-nine, after the words "Board of Control", in both places where they occur, there shall be inserted the words "or the Minister" and for the word "guardians", in both places where they occur, there shall be substituted the words "a local health authority".

In section three hundred and thirty-two, for subsection (4) the following subsection shall be substituted:—

"(4) Where any Commissioners or visitors summon a person to appear and give evidence, all reasonable expenses of his appearance and attendance shall be paid by the Minister".

In section three hundred and thirty-eight, in subsection (1) for the words "with the approval of the Lord Chancellor" there shall be substituted the words "with the approval of the Minister and the concurrence of the Lord Chancellor".

In section three hundred and forty-one for the definition of "mental hospital" there shall be substituted the following definition:—

"'mental hospital' means a hospital vested in the Minister and designated by him as a mental hospital";

and after the said definition there shall be inserted the following definition:—

"'the Minister' means the Minister of Health";

in the definition of "clerk" for the words "local authority", wherever they occur, there shall be substituted the words "local health authority", the definitions of "district mental hospital", "rate-aided person", "visiting committee" and "workhouse" shall be omitted, for the definition of "private patient" there shall be substituted the following definition:—

"'private patient' means a patient maintained wholly or partly at the expense of some person other than the Minister";

and in the definition of "reception order", the words "whether a rate-aided person or not", shall be omitted.

### *The Lunacy Act, 1891*

54 & 55 Vict. c. 65

In section two, in subsection (1), for the words "relieving officer, or overseer" there shall be substituted the words "or officer of a local health authority".

In section twelve for the reference to the Board of Control there shall be substituted a reference to the Minister.

For section nineteen, the following section shall be substituted:—

"19.—(1) Where a person of unsound mind can no longer be maintained in a registered hospital or licensed house, the manager of the hospital or house may after giving notice to the local health authority apply to a justice having jurisdiction in the place where the hospital or house is situated for an order for the removal of the said person and the justice may order him to be removed to a mental hospital named in the order and the manager of the hospital or house shall



cause him to be removed thereto. In the case of such removal the original reception order shall remain in force.

(2) The costs of obtaining an order under this section and of the removal of the person to whom it relates shall be paid to the said manager by the local health authority and the amount of those costs shall, in default of agreement, be determined by a justice having jurisdiction to make the order ”.

*The Mental Deficiency Act, 1913*

3 & 4 Geo. 5, c. 28

Throughout the Act, for references to the local authority or a local authority there shall be substituted references to the local health authority and a local health authority, respectively, and references to the managers of an institution shall, in relation to an institution vested in the Minister, be construed as references to the hospital management committee of the institution.

In section three, in subsection (1) for the word “ Board ” there shall be substituted the words “ Minister of Health ”.

In section five in subsection (2) for the word “ Board ” there shall be substituted the words “ Minister of Health ”.

In section six, in subsection (3) the words “ the managers of which are willing to receive him ” shall be omitted.

In section seven, in subsection (2A) after the word “ Board ” there shall be inserted the words “ or the Regional Hospital Board in whose area the institution is situated ”.

In section nine the words “ the managers of which are willing to receive him ” shall be omitted.

In section sixteen, at the end of subsection (2) there shall be added the words “ The reference in this subsection to the managers of the institution for persons of unsound mind shall be construed, in the case of a mental hospital, as a reference to the Hospital Management Committee of that hospital ”; and in subsection (3), for the words from the beginning of the subsection to “ Minister of Health ” there shall be substituted the words “ The Minister of Health may ”.

In section twenty-one for the words “ Board of Control hereinafter constituted ” there shall be substituted the words “ Minister of Health ”.

In section twenty-three, in subsection (1) the words “ and other officers and servants ”, in both places where they occur, shall be omitted; in subsection (2) after the word “ secretary ” there shall be inserted the word “ and ”, and the words “ and other officers and servants ” shall be omitted; and in subsection (3) after the word “ secretary ” there shall be inserted the word “ and ” and the words “ officers and servants of the Board ” shall be omitted.

In section twenty-four, for the words “ secretary, officer or servant ” there shall be substituted the words “ or secretary ”, and for the words “ secretary or officer ” there shall be substituted the words “ or secretary ”.

The functions of the Board of Control under paragraph (b), paragraph (c), so far as it relates to certification and approval, and paragraph (f) of subsection (1) of section twenty-five shall be exercised by the Minister, and in paragraph (g) for the words “ Secretary of State ” there shall be substituted the words “ Minister of Health ”, and in subsection (2) the word “ certified ” wherever it qualifies the word “ institution ” shall be omitted.

In section twenty-six, after the word “ Commissioners ” there shall be inserted the words “ the secretary and the inspectors ”, the words “ and the officers ” shall be omitted and the reference to the Minister of Health (included by the Ministry of Health (Lunacy and Mental Deficiency) Transfer of Powers Order, 1920) shall be omitted.

In section thirty, in paragraph (cc) the words “ or have been sent to certified institutions ” shall be omitted, in paragraph (e) the words “ maintain in an institution or approved home or ” and the words “ the expenses of maintenance in an institution or approved home or ” shall be omitted, in paragraph (f) the words “ dying in an institution or ” shall be omitted, and in paragraph (h) for the word “ Board ” in both places where it occurs there shall be substituted the words “ Minister of Health ”.

In section thirty-six for the word "Board" there shall be substituted the words "Minister of Health".

In section forty-one, in subsection (1), for paragraph (f) there shall be substituted the following paragraph:—

"(f) the transfer of patients from one institution to another".

For subsection (1) of section forty-three there shall be substituted the following subsection:—

"(1) where a person is ordered to be sent to an institution or to be placed under guardianship, the local health authority for the area in which he resided (to be specified in the order) shall provide for his conveyance to the institution or, as the case may be, shall make provision for his guardianship".

In subsections (2) and (3) for the word "council", wherever it occurs there shall be substituted the words "local health authority"; subsection (2) shall only apply to orders placing a person under guardianship; and in subsection (3) the words from the beginning to the words "other and", the word "certified" and the words "and his reception and maintenance in" shall be omitted.

In section forty-four, in subsection (2A) the word "certified" shall be omitted; and in subsection (3) for the word "council" wherever it occurs, there shall be substituted the words "local health authority".

In section forty-six, in subsection (1) the words "not provided by a local authority", shall be omitted.

In sections forty-nine and fifty, for references to the Board of Control there shall be substituted references to the Minister of Health.

In section fifty-four, in subsection (1) after the word "authority" there shall be inserted the words "or a Regional Hospital Board".

In section fifty-eight, for the word "Board" there shall be substituted the words "Minister of Health".

In section seventy-one, in subsection (1) for the definitions of "institution" and "institution for defectives" there shall be substituted the following definitions:—

"The expressions 'institution' and 'institution for defectives' mean an institution for defectives vested in the Minister of Health and a certified institution";

the definitions of "State institution" and "board of guardians of a poor law union" shall be omitted; in the definition of "certified institution" the words from "and includes" to the end of the definition shall be omitted; in the definition of "approved home" for the word "Board" there shall be substituted the words "Minister of Health"; and in the definition of "place of safety" the words "workhouse or" shall be omitted; and in subsection (3) for the words "a county" there shall be substituted the words "the area of a local health authority", and for the words "the council of a county" there shall be substituted the words "a local health authority".

#### *The Mental Deficiency Act, 1927*

17 & 18 Geo. 5, c. 33

In section six, in subsection (1) for the words "local authority" there shall be substituted the words "Hospital Management Committee".

#### *The Mental Treatment Act, 1930*

20 & 21 Geo. 5, c. 23

Throughout the Act, for references to the local authority or a local authority there shall be substituted references to the local health authority or a local health authority;

In section one for the references to the Board of Control there shall be substituted references to the Minister of Health;

In section two, in subsections (1) and (2) for the words "visiting committee" there shall be substituted the words "Hospital Management Committee";

In section five, in subsection (1) for the words "maintained by a local authority" there shall be substituted the words "vested in the Minister of Health" and for the first reference to the Board of Control there shall be substituted a reference to the

Minister of Health ; in subsection (3) for the reference to the Board of Control there shall be substituted a reference to the Minister of Health ; and in subsections (6), (7), and (9) for the words "visiting committee" wherever they occur, there shall be substituted the words "Hospital Management Committee"; in subsection (9) for the words "Board of Control", in the first place where they occur, there shall be substituted the words "Minister of Health"; and in subsection (17) for the words "Board of Control" there shall be substituted the words "Minister of Health" and for the words "Board think" there shall be substituted the words "Minister thinks".

In section eleven, in subsection (1) for the word "four" there shall be substituted the word "five"; and in subsection (3) after the word "two" there shall be inserted the words "or, if there are five senior commissioners other than the chairman, three";

In section seventeen, in proviso (i), for the words "rate-aided person" there shall be substituted the words "patient other than a private patient".

In section twenty-one, in subsection (1) for the words "maintained by a local authority" there shall be substituted the words "vested in the Minister of Health and designated by him".

In the Third Schedule, in paragraph 2 the words "subsection (3) of section twenty-seven of the principal Act (which prescribes the mental hospitals into which rate-aided patients may be received)" shall be omitted; the words "sixty-nine" shall be omitted; for the words "that Act", where they first occur, there shall be substituted the words "the principal Act", and for the words from "Part X" to the word "maintenance" there shall be substituted the words "section two hundred and eighty-five of that Act (which relates to the payment of medical fees and other expenses)", and in paragraph 5 for the words "maintained by local authorities not being mental hospitals" there shall be substituted the words "vested in the Minister of Health and designated by him for the purposes of this Act", and for the words "from section two hundred and seventy-five" to the end of the paragraph there shall be substituted the words "subsection (5) of section two hundred and seventy-five of the principal Act (which relates to temporary absence) and section two hundred and seventy-seven of that Act (which relates to the duties of the chaplain)".

[917]

*Effect of Schedule.*—This Part of the Ninth Schedule specifies the enactments which are, as from the appointed day, amended by s. 50 (1), *ante*. Some of these amendments are brought into force as from July 1, 1947 (see note to s. 50, *ante*).

*Criminal Lunatics Act, 1884*, ss. 7 (2), 8 (2), (3), 9 (paras. (1), (3)), 10 (1), (3).—13 Halsbury's Statutes 358, 359, 360, 361.

*Lunacy Act, 1890*.—See 11 Halsbury's Statutes 17.

*Lunacy Act, 1891*, ss. 2 (1), 12, 19.—*Ibid.* 144, 146, 147.

*Mental Deficiency Act, 1913*.—*Ibid.* 160.

*Mental Deficiency Act, 1927*, s. 6 (1).—*Ibid.* 200.

*Mental Treatment Act, 1930*.—23 Halsbury's Statutes 154.

## PART II

### REPEALS OF ENACTMENTS RELATING TO PERSONS OF UNSOUND MIND AND MENTAL DEFECTIVES

Session and Chapter	Short Title	Extent of Repeal
1 & 2 Vict. c. 14 ..	The Criminal Lunatics Act, 1838.	The whole Act.
30 & 31 Vict. c. 106	The Poor Law Amendment Act, 1867.	Section 23.
47 & 48 Vict. c. 64	The Criminal Lunatics Act, 1884.	Subsection (1) of section 8, and paragraphs (2), (4) and (5) of section 9.
53 & 54 Vict. c. 5 ..	The Lunacy Act, 1890.	Sections 13, 18, 23 to 27, subsection (1) of section 37, subsection (5) of section 40, sections 52 and 54, sections 60, 65, 69, paragraph (b) of

Session and Chapter	Short Title	Extent of Repeal
53 & 54 Vict. c. 5	The Lunacy Act, 1890— <i>contd.</i>	subsection (1) of section 76, subsection (2) of section 80, sections 81, 132, 169 to 176, 189, 190, 201, 202, subsection (4) of section 206, sections 238 to 257, 260 to 274, subsections (1) to (4) and (6) of section 275, sections 276, 278, 283, 284, subsection (2) of section 285 and sections 286 to 314.
54 & 55 Vict. c. 65	The Lunacy Act, 1891	Subsection (2) of section 2, sections 3 to 6, 11, 13 to 18 and 22.
3 & 4 Geo. 5, c. 28	The Mental Deficiency Act, 1913.	Sections 13, 14, subsection (3) of section 15, paragraph (c) of section 20, paragraph (c) of subsection (1) of section 25, sections 27, 28 and 29, paragraph (c) of section 30, sections 33 to 35, 37 to 39, subsection (4) of section 44, proviso (c) to subsection (2) of section 49, sections 66, 70 and subsection (2) of section 71.
17 & 18 Geo. 5, c. 33	The Mental Deficiency Act, 1927.	Subsection (2) of section 6, and sections 8 and 10.
20 & 21 Geo. 5, c. 23	The Mental Treatment Act, 1930.	Sections 6 to 10, 12, subsection (1) of section 14, proviso (ii) to section 17, sections 18, 19, subsections (1) and (2) of section 20, subsection (2) of section 21 and the Second Schedule. [918]

*Effect of Schedule.*—This Part of the Ninth Schedule specifies the enactments which are, as from the appointed day, repealed by s. 50 (1), *ante*. Some of these repeals are brought into force as from July 1, 1947 (see note to s. 50, *ante*).

*Criminal Lunatics Act*, 1838.—4 Halsbury's Statutes 465.

*Poor Law Amendment Act*, 1867, s. 23.—11 Halsbury's Statutes 16.

*Criminal Lunatics Act*, 1884, ss. 8 (1), 9 (paras. (2), (4), (5)).—13 Halsbury's Statutes 358, 360.

*Lunacy Act*, 1890.—11 Halsbury's Statutes 17.

*Lunacy Act*, 1891, ss. 2 (2), 3 to 6, 11, 13 to 18, 22.—*Ibid.* 144, 145, 146, 147, 149.

*Mental Deficiency Act*, 1913.—*Ibid.* 160.

*Mental Deficiency Act*, 1927, ss. 6 (2), 8, 10.—*Ibid.* 200, 201.

*Mental Treatment Act*, 1930.—23 Halsbury's Statutes 154.

## Section 76

## TENTH SCHEDULE

### CONSEQUENTIAL AMENDMENTS AND REPEALS

#### PART I

#### AMENDMENTS

#### *The Poor Law Act*, 1930

#### 20 & 21 Geo. 5, c. 17

In section one hundred and three, in subsection (4), after the word "situate", there shall be inserted the words "or in a hospital vested in the Minister".

#### *The Road Traffic Acts*, 1930 and 1934

Subsection (2) of section thirty-six of the Road Traffic Act, 1930, and section sixteen of the Road Traffic Act, 1934, shall have effect as if any requirement therein for the payment of money to a hospital were construed, in the case of a hospital

vested in the Minister, as requiring the payment to be made to the Regional Hospital Board for the area where the hospital is situated or, in the case of a teaching hospital, to the Board of Governors of the hospital; and section seventeen of the last-mentioned Act shall have effect accordingly.

*The Yarmouth Naval Hospital Act, 1931*

21 & 22 Geo. 5, c. 15

In section six for the words from the beginning to "that pay or pension" there shall be substituted the words "The pay or pension payable to any person detained in Yarmouth Hospital in pursuance of the provisions of section one of this Act".

*The Children and Young Persons Act, 1933*

23 & 24 Geo. 5, c. 12

In section ninety-two, for the words "Board of Control" there shall be substituted the words "Minister of Health".

*The Pharmacy and Poisons Act, 1933*

23 & 24 Geo. 5, c. 25

In section nineteen, in proviso (a) to subsection (3), for the words "Acts relating to national health insurance" there shall be substituted the words "National Health Service Act, 1946".

*The Voluntary Hospitals (Paying Patients) Act, 1936*

26 Geo. 5 & 1 Edw. 8, c. 17

In section one, in the definition of "voluntary hospital" after the word "rates" there shall be inserted the words "or which is vested in the Minister of Health".

*The Public Health Act, 1936*

26 Geo. 5 & 1 Edw. 8, c. 49

The following provisions, that is to say, sections one hundred and sixty-nine, one hundred and seventy, two hundred and forty-four, two hundred and fifty-four and three hundred and five shall have effect as if local health authorities were among the authorities specified therein; sections one hundred and forty-three, one hundred and seventy-two, one hundred and seventy-nine and one hundred and ninety-six shall, in their application to any council which is a local health authority, be construed as applying to that council in their capacity of local health authority; and section two hundred and sixty-seven and any provision in Part XII shall, in its application to any such council, be construed as applying to that council in their capacity of local health authority as well as in other capacities.

Where the local authority for the purposes of the Public Health Act, 1936, is not the local health authority, it shall be the duty of the medical officer of health of the said local authority for any part of the area of the local health authority who receives a certificate or notice under section one hundred and forty-four, section one hundred and forty-six, or section two hundred and forty-two of the said Act to send a copy thereof within twelve hours after its receipt to the local health authority; and where a copy of any such certificate has been sent to the local health authority under this paragraph, and any fee has been paid for that certificate by the local authority, the fee shall be repaid to the authority by the local health authority.

In section one hundred and sixty-nine for the words "or institution" in the first place where they occur there shall be substituted the words "vested in the Minister", for the words "superintending body" there shall be substituted the words "Hospital Management Committee or Board of Governors", the words "or institution" in the second and third places where they occur and the words "and maintained therein at the cost of the authority" shall be omitted.

In section one hundred and seventy in subsection (1) the words from "at the cost" to the end of the subsection shall be omitted.

In section one hundred and seventy-two in subsection (1) for the words "or institution" in the first place where they occur there shall be substituted the words

“vested in the Minister”, for the words “superintending body” there shall be substituted the words “Hospital Management Committee or Board of Governors”, and the words “or institution” in the second place where they occur shall be omitted; in subsection (5) sub-paragraph (i) and the words “pay the whole or such part, if any, as they think fit of the said cost and” shall be omitted and in subsection (7) the words “or institution” shall be omitted.

In section one hundred and ninety-nine for the words “Board of Control” there shall be substituted the word “Minister”.

In section two hundred and three, in subsection (1) the words “the council who are” shall be omitted.

In section two hundred and eighteen, after the words “place of safety” there shall be inserted the words “other than a hospital vested in the Minister”.

In subsection (1) of section two hundred and nineteen in paragraph (c) thereof for the words “Board of Control” there shall be substituted the word “Minister”.

In section two hundred and forty-four for the words “or institution” in the first place where they occur there shall be substituted the words “vested in the Minister”, for the words “superintending body” there shall be substituted the words “Hospital Management Committee or Board of Governors” and the words “or institution” in the second and third places where they occur and the words “and maintained therein at their cost” shall be omitted.

In section three hundred and seven the words “hospital accommodation” shall be omitted.

*The Public Health (London) Act, 1936*

26 Geo. 5 and 1 Edw. 8, c. 50

The following provisions, that is to say, subsection (8) of section one hundred and ninety-two, subsection (2) of section two hundred and two, section two hundred and twenty-four (except so far as it relates to the exercise of powers under the Poor Law Act, 1930) and section two hundred and ninety-eight shall, in their application to the London County Council, be construed as applying to that council in their capacity of local health authority; and section two hundred and ninety-nine shall, in its application to the London County Council, be construed as applying to that council in their capacity of local health authority as well as in other capacities.

In section one hundred and ninety-two the proviso to subsection (1) shall be omitted.

In section two hundred and one in subsection (1) for the words “superintending body” there shall be substituted the words “Hospital Management Committee or Board of Governors”, the words “at the expense of the sanitary authority for the district in which the said person is found” shall be omitted and at the end of the subsection there shall be inserted the words “which is vested in the Minister”, in subsection (2) after the words “sanitary authority”, there shall be inserted the words “or the local health authority” and in subsection (3) for the words “to which the authority are entitled to remove patients” there shall be substituted the words “vested in the Minister, with the consent of the Hospital Management Committee or Board of Governors thereof”.

In subsection (1) of section two hundred and two after the word “hospital” in the first place where it occurs there shall be inserted the words “vested in the Minister” and the words “at the expense of the county council” shall be omitted.

In subsection (2) of section two hundred and twenty-four after the word “place” there shall be inserted the words “other than a hospital vested in the Minister” and after the words “order was made” there shall be inserted the words “and the expenses incurred in the removal of any person as aforesaid to a hospital vested in the Minister shall be borne by the local health authority”; and in subsection (4) after the words “sanitary authority” there shall be inserted the words “or the local health authority”.

In section two hundred and fifty-five for references to a welfare authority or every welfare authority there shall be substituted references to the local health authority, and for references to the district of a welfare authority and to the medical officer of health for such a district there shall be substituted references to the area of the local health authority and the medical officer of that authority, respectively.

Throughout Part XIII, for references to the local authority or a local authority or every local authority there shall be substituted references to the local health

authority and for references to the district of a local authority there shall be substituted references to the area of the local health authority.

In subsection (3) of section two hundred and fifty-seven, paragraph (a) shall be omitted.

In section two hundred and sixty-eight, in subsection (1) the words from "and, for the purpose of enforcing the provisions of this Part of this Act", to the end of the subsection, and in subsection (2) the words "or the county council", shall be omitted.

In section two hundred and seventy-one for the words "Board of Control" there shall be substituted the word "Minister".

In section three hundred and four, in the definition of "nursing home" for the words "Board of Control" there shall be substituted the word "Minister".

*The Shops (Sunday Trading Restriction) Act, 1936*

26 Geo. 5 and 1 Edw. 8, c. 53

In proviso (v) to subsection (1) of section eleven and in paragraph 1 of the First Schedule, for the words "insurance committee within the meaning of the National Health Insurance Act, 1936", and the words "insurance committee under the National Health Insurance Act, 1936", respectively, there shall be substituted the words "Executive Council."

*The Food and Drugs Act, 1938.*

1 & 2 Geo. 6, c. 56

In section seventeen in subsection (1), at the end of the subsection there shall be inserted the words "and, where the local authority is not the local health authority, the district medical officer of health shall send a copy of the certificate within twelve hours after its receipt to the local health authority" and at the end of subsection (4) there shall be added the following subsection :—

"(5) Where a copy of a certificate has been sent to the local health authority under this section, and any fee has been paid for that certificate by the local authority, the fee shall be repaid to the local authority by the local health authority".

*The Adoption of Children (Regulation) Act, 1939*

2 & 3 Geo. 6, c. 27

In section seven, in paragraph (c) of subsection (8) for the words "Board of Control" there shall be substituted the words "Minister of Health" and in section sixteen, in subsection (3), for the words "London County Council" there shall be substituted the words "local health authority" and for the words "that Council" there shall be substituted the words "that authority".

*The Education Act, 1944*

7 & 8 Geo. 6, c. 31

In section fifty-seven, for references to the local authority for the purposes of the Mental Deficiency Act, 1913, there shall be substituted references to the local health authority. [919]

*Effect of Schedule.*—This Part of the Tenth Schedule specifies the enactments which are, as from the appointed day, amended by s. 76, *ante*. Some of these amendments are brought into force as from July 1, 1947 (see note to s. 76, *ante*).

*Poor Law Act, 1930, s. 103 (4).*—12 Halsbury's Statutes 1025.

*Road Traffic Act, 1930, s. 36 (2).*—23 Halsbury's Statutes 637.

*Road Traffic Act, 1934, ss. 16, 17.*—27 Halsbury's Statutes 547, 548.

*Yarmouth Naval Hospital Act, 1931, s. 6.*—24 Halsbury's Statutes 426.

*Children and Young Persons Act, 1933, s. 92.*—26 Halsbury's Statutes 230.

*Pharmacy and Poisons Act, 1933, s. 19 (3) proviso (a).*—26 Halsbury's Statutes 576.

*Voluntary Hospitals (Paying Patients) Act, 1936, s. 1.*—29 Halsbury's Statutes 261.

*Public Health Act, 1936.*—*Ibid.* 322.

*Public Health (London) Act, 1936.*—30 Halsbury's Statutes 446.

*Shops (Sunday Trading Restriction) Act, 1936, s. 11 (1) proviso (v), Sched. I, para. 1.*—29 Halsbury's Statutes 161, 164.



*Food and Drugs Act*, 1938, s. 17 (1), (4).—31 Halsbury's Statutes 265, 266.  
*Adoption of Children (Regulation) Act*, 1939, ss. 7 (8) (c), 16 (3).—32 Halsbury's Statutes 212, 218.  
*Education Act*, 1944, s. 57.—37 Halsbury's Statutes 182.

PART II  
 REPEALS

Session and Chapter	Short Title	Extent of Repeal
12 & 13 Vict. c. 103	The Poor Law Amendment Act, 1849.	In section 3, the words " or under the statutes for the removal of rate-aided persons of unsound mind to mental hospitals ".
23 & 24 Vict. c. 75	The Criminal Lunatic Asylums Act, 1860.	In sections 2 and 3 the word " county " wherever it occurs.
30 & 31 Vict. c. 84	The Vaccination Act, 1867.	The whole Act.
34 & 35 Vict. c. 70	The Local Government Board Act, 1871.	So much of Part II of the Schedule as relates to the Vaccination Act, 1867.
34 & 35 Vict. c. 98	The Vaccination Act, 1871.	The whole Act.
37 & 38 Vict. c. 75	The Vaccination Act, 1874.	The whole Act.
61 & 62 Vict. c. 49	The Vaccination Act, 1898.	The whole Act.
7 Edw. 7, c. 31 ..	The Vaccination Act, 1907.	The whole Act.
5 & 6 Geo. 5, c. 64	The Notification of Births (Extension) Act, 1915.	The whole Act.
8 & 9 Geo. 5, c. 43	The Midwives Act, 1918.	Subsection (4) of section 14.
11 & 12 Geo. 5, c. 12	The Public Health (Tuberculosis) Act, 1921.	The whole Act.
16 & 17 Geo. 5, c. 32	The Midwives Act, 1926.	Subsection (3) of section 2.
19 & 20 Geo. 5, c. 17	The Local Government Act, 1929.	Section 2 ; paragraphs (d) and (f) of subsection (1) and subsection (3) of section 5 ; subsection (5) of section 14 ; sections 62, 93 and 101 ; subsections (2) and (3) of section 102 ; subsection (2) of section 128 ; paragraph 4 of the Third Schedule, paragraph 11, sub-paragraphs (a) and (b) of paragraph 12, sub-paragraphs (a) and (b) of paragraph 13, sub-paragraph (b) of paragraph 24 and paragraph 25 of the Tenth Schedule.
20 & 21 Geo. 5, c. 17	The Poor Law Act, 1930.	Section 8 ; in subsection (1) of section 19, the words " or, being a person of unsound mind, is removed to any institution for persons of unsound mind " ; in subsection (1) of section 22 the words " surgical or medical appliances " ; in section 40 the words from " whether maintained " to the end

Session and Chapter	Short Title	Extent of Repeal
20 & 21 Geo. 5, c. 17	The Poor Law Act, 1930.— <i>cont.</i>	of the section ; in subsection (3) of section 52 the words from "separate infirmary" to "disease" and the words "or idiots" ; paragraph (a) of section 58 ; in paragraph (a) of section 67 the words "sick or" ; in section 80 the words "medical or otherwise" ; in subsection (1) of section 123 the words "sick, insane or" and sections 126 to 131.
21 & 22 Geo. 5, c. 15	The Yarmouth Naval Hospital Act, 1931.	In paragraph (ii) of subsection (5) of section 2, the words "or the master of the workhouse" and in section 7 the words "by deductions of pay or pensions or".
23 & 24 Geo. 5, c. 38	The Summary Jurisdiction (Appeals) Act, 1933.	In subsection (2) of section 1 the words "under sections three hundred and one to three hundred and thirteen of the Lunacy Act, 1890 or" and in subsection (2) of section 9 the words "under sections three hundred and one to three hundred and thirteen of the Lunacy Act, 1890, and".
24 & 25 Geo. 5, c. 29	The Unemployment Assistance Act, 1934.	In subsection (2) of section 53 the words "to medical needs or" and "to mental or bodily health or" ; in subsection (1) of section 54 the definitions of "Medical needs" and "Medical or surgical" and in Part I of the Eighth Schedule, in proviso (ii) to paragraph 1 the words "apply to the granting of relief in respect of the medical needs of any person or", and in paragraph 3 the words "not being relief in respect of medical needs", in both places where they occur.
26 Geo. 5, and 1 Edw. 8, c. 40.	The Midwives Act, 1936.	Section 1, subsections (1) and (2) of section 2, sections 3 and 4, and the First Schedule.
26 Geo. 5, and 1 Edw. 8, c. 49.	The Public Health Act, 1936.	Sections 171, 173 to 178, 180 to 186, 197, 200, 201 and 202 ; subsection (4) of section 203 and section 204.
26 Geo. 5, and 1 Edw. 8, c. 50.	The Public Health (London) Act, 1936.	Sections 13, 219 to 223, 225 to 233, and 250 to 254 ; subsection (5) of section 255, and section 256.
26 Geo. 5, and 1 Edw. 8, c. 51.	The Housing Act, 1936.	In section 97, the words "or mental hospitals board" and "or board" ; subsection (2) of section 120 ; in subsection (2) of section 123 the words "or a mental hospital board" and in section 188 the definition of "Mental hospitals board".
1 & 2 Geo. 6, c. 11	The Blind Persons Act, 1938.	In subsection (2) of section 2 the word "either", in the second place where it occurs, and the words "or medical assistance".

Session and Chapter	Short Title	Extent of Repeal
2 & 3 Geo. 6, c. 13	The Cancer Act, 1939	Sections 1, 2 and 6 and subsections (2) and (3) of section 8.
2 & 3 Geo. 6, c. 40	The London Government Act, 1939.	Section 62 and 193 and paragraph (e) of subsection (2) of section 195.
3 & 4 Geo. 5, c. 13	The Old Age and Widows' Pensions Act, 1940.	In Part II of the Eighth Schedule to the Unemployment Assistance Act, 1934, as applied with modifications by the Second Schedule to the Old Age and Widows' Pensions Act, 1940, in paragraph 1 the words "apply to the granting of relief in respect of the medical needs of any person or", and in paragraph 2 the words "not being relief in respect of medical needs", in both places where they occur.
7 & 8 Geo. 6, c. 31	The Education Act, 1944.	In section 116 the words "in pursuance of section twenty-five of the Lunacy Act, 1890, or".

[920]

*Effect of Schedule*—This Part of the Tenth Schedule specifies the enactments which are, as from the appointed day, repealed by s. 76, *ante*.

*Poor Law Amendment Act*, 1849, s. 3.—12 Halsbury's Statutes 930.

*Criminal Lunatic Asylums Act*, 1860, ss. 2 and 3.—13 Halsbury's Statutes 316.

*Vaccination Act*, 1867.—13 Halsbury's Statutes 609.

*Local Government Board Act*, 1871, *Sched. Part II*.—3 Halsbury's Statutes 392.

*Vaccination Acts*, 1871, 1874, 1898 and 1907.—13 Halsbury's Statutes 618, 623, 875, 910.

*Notification of Births (Extension) Act*, 1915.—15 Halsbury's Statutes 767.

*Midwives Act*, 1918, s. 14 (4).—11 Halsbury's Statutes 747.

*Public Health (Tuberculosis) Act*, 1921.—13 Halsbury's Statutes 971.

*Midwives Act*, 1926, s. 2 (3).—11 Halsbury's Statutes 783.

*Local Government Act*, 1929.—10 Halsbury's Statutes 883.

*Poor Law Act*, 1930.—12 Halsbury's Statutes 968.

*Yarmouth Naval Hospital Act*, 1931, ss. 2 (5) (ii), 7.—24 Halsbury's Statutes 424, 426.

*Summary Jurisdiction (Appeals) Act*, 1933, ss. 1 (2), 9 (2).—26 Halsbury's Statutes 548, 555.

*Unemployment Assistance Act*, 1934, ss. 53 (2), 54 (1) and *Sched. VIII, Part I, paras. 1 (proviso ii), and 3*.—27 Halsbury's Statutes 801, 822.

*Midwives Act*, 1936, ss. 1, 2 (1) and (2), 3, 4, and *Sched. I*.—29 Halsbury's Statutes 265, 267, 268, 273.

*Public Health Act*, 1936, ss. 171, 173-8, 180-6, 197, 200-202, 203 (4), 204. *Ibid.* 442 *et seq.*

*Public Health (London) Act*, 1936, ss. 13, 219-223, 225-233, 250-254, 255 (5), 256.—30 Halsbury's Statutes 451 *et seq.*

*Housing Act*, 1936, ss. 97, 120 (2), 123 (2), 188.—29 Halsbury's Statutes 638, 651, 653, 680.

*Blind Persons Act*, 1938, s. 2 (2).—31 Halsbury's Statutes 813.

*Cancer Act*, 1939, ss. 1, 2, 6, 8 (2) and (3).—32 Halsbury's Statutes 253, 254, 258.

*London Government Act*, 1939, ss. 62, 193, 195 (2) (e).—*Ibid.* 290, 346, 348.

*Old Age and Widows' Pensions Act*, 1940, *Sched. II*.—33 Halsbury's Statutes 528.

*Education Act*, 1944, s. 116.—37 Halsbury's Statutes 220.

## ORDERS, CIRCULARS AND MEMORANDA

### THE NATIONAL HEALTH SERVICE (DETERMINATION OF REGIONAL HOSPITAL AREAS, ORDER) 1946

S. R. & O., 1946, No. 2158

December 18, 1946

Whereas by section 11 of the National Health Service Act, 1946, it is provided that the Minister of Health (hereinafter called "the Minister")

may by order determine the areas for which Regional Hospital Boards shall be constituted for the exercise of functions with respect to the administration of hospital and specialist services and that before making any order determining such an area the Minister shall consult with such bodies and organisations as appear to him to be concerned :

Now therefore the Minister, in exercise of his powers under the said Act, and after consulting with such bodies and organisations as appear to him to be concerned, hereby orders as follows :—

1. This order may be cited as the National Health Service (Determination of Regional Hospital Areas) Order, 1946, and shall come into operation on the date hereof. [921]

2. Each of the areas set out in the schedule to this order and numbered respectively 1 to 14 shall be an area for which a Regional Hospital Board shall be constituted for the purpose of exercising functions with respect to the administration of hospital and specialist services under the said Act in that area, and each such area shall be known by the title set out in the second column of the said schedule opposite the description of the area. [922]

#### SCHEDULE

Column 1 Number of Area	Column 2 Title of Area	Column 3 Description of Area
1	The Newcastle Regional Hospital Area.	The administrative counties of Cumberland, Durham and Northumberland. The county boroughs of Carlisle, Darlington, Gateshead, Middlesbrough, Newcastle-upon-Tyne, South Shields, Sunderland, Tynemouth and West Hartlepool. So much of the administrative county of Westmorland as comprises the borough of Appleby and the rural district of North Westmorland. So much of the administrative county of the North Riding of York as comprises the boroughs of Redcar, Richmond and Thornaby-on-Tees; the urban districts of Eston, Guisborough, Loftus, Northallerton, Saltburn and Marske-by-the-Sea, and Skelton and Brotton; and the rural districts of Croft, Northallerton, Reeth, Richmond, Startforth and Stokesley.
2	The Leeds Regional Hospital Area.	The administrative counties of the East Riding of York, the North Riding of York (except the part included in the Newcastle Regional Hospital Area) and the West Riding of York (except the part included in the Sheffield Regional Hospital Area). The county boroughs of Bradford, Dewsbury, Halifax, Huddersfield, Kingston-upon-Hull, Leeds, Wakefield, and York.

Column 1 Number of Area	Column 2 Title of Area	Column 3 Description of Area
3	The Sheffield Regional Hospital Area.	<p>The administrative counties of Derby (except the part included in the Manchester Regional Hospital Area), Leicester, Lincoln, Parts of Holland, Lincoln, Parts of Kesteven (except the part included in the East Anglian Regional Hospital Area), Lincoln, Parts of Lindsey, Nottingham and Rutland (except the rural district of Ketton).</p> <p>The county boroughs of Barnsley, Derby, Doncaster, Grimsby, Leicester, Lincoln, Nottingham, Rotherham and Sheffield.</p> <p>So much of the administrative county of the West Riding of York as comprises the urban districts of Adwick-le-Street, Bentley with Arksey, Conisbrough, Cudworth, Darfield, Darton, Dearne, Dodworth, Hoyland Nether, Maltby, Mexborough, Penistone, Rawmarsh, Royston, Stocksbridge, Swinton, Tickhill, Wath-upon-Deane, Wombwell and Worsborough; and the rural districts of Doncaster, Kiveton Park, Penistone, Rotherham, Thorne and Wortley.</p>
4	The East Anglian Regional Hospital Area.	<p>The administrative counties of Cambridge, Huntingdon, Isle of Ely, Norfolk, Soke of Peterborough, Suffolk, East, and Suffolk, West.</p> <p>The county boroughs of Great Yarmouth, Ipswich and Norwich.</p> <p>So much of the administrative county of Essex as comprises the borough of Saffron Walden; and the rural district of Saffron Walden.</p> <p>So much of the administrative county of Hertford as comprises the urban district of Royston.</p> <p>So much of the administrative county of Lincoln, Parts of Kesteven, as comprises the borough of Stamford; the urban district of Bourne; and the rural district of South Kesteven.</p> <p>So much of the administrative county of Rutland as comprises the rural district of Ketton.</p>
5	The North-West Metropolitan Regional Hospital Area.	<p>The administrative counties of Bedford, Hertford (except the parts included in the East Anglian and North-East Metropolitan Regional Hospital Areas) and Middlesex (except the part included in the North-East Metropolitan Regional Hospital Area).</p> <p>So much of the administrative county</p>

Column 1 Number of Area	Column 2 Title of Area	Column 3 Description of Area
5	The North-West Metropolitan Regional Hospital Area.— <i>contd.</i>	<p>of Berks as comprises the boroughs of Maidenhead and New Windsor; and the rural districts of Cookham, East-hampstead and Windsor.</p> <p>So much of the administrative county of Buckingham as comprises the borough of Slough; the urban districts of Beaconsfield and Eton; and the rural district of Eton.</p> <p>So much of the administrative county of London as comprises the metropolitan boroughs of Hampstead, Holborn, Islington, St. Marylebone and St. Pancras, the part of the metropolitan borough of Hammersmith lying North of Goldhawk Road and Stamford Brook Road, the part of the metropolitan borough of Kensington lying North of Holland Park Avenue, Notting Hill Gate and Bayswater Road, the part of the metropolitan borough of Paddington lying North of Bayswater Road, and the part of the metropolitan Borough of Westminster lying North East of Park Lane, and North of Constitution Hill, Birdcage Walk, Great George Street and Bridge Street.</p>
6	The North-East Metropolitan Regional Hospital Area.	<p>The administrative county of Essex (except the part included in the East Anglian Regional Hospital Area). The county boroughs of East Ham, South-end-on-Sea and West Ham.</p> <p>So much of the administrative county of Hertford as comprises the borough of Hertford; the urban districts of Bishop's Stortford, Cheshunt, Hoddesdon, Sawbridgeworth and Ware; and the rural districts of Braughing, Hertford and Ware.</p> <p>So much of the administrative county of Middlesex as comprises the boroughs of Edmonton and Tottenham; and the urban district of Enfield.</p> <p>So much of the administrative county of London as comprises the City of London, the places known as the Inner Temple and Middle Temple, and the metropolitan boroughs of Bethnal Green, Finsbury, Hackney, Poplar, Shoreditch, Stepney and Stoke Newington.</p>
7	The South-East Metropolitan Regional Hospital Area.	<p>The administrative counties of Kent and Sussex, East.</p> <p>The county boroughs of Brighton, Canterbury, Eastbourne and Hastings.</p> <p>So much of the administrative county</p>

Column 1 Number of Area	Column 2 Title of Area	Column 3 Description of Area
7	The South-East Metro- politan Regional Hos- pital Area.— <i>contd.</i>	of London as comprises the metro- politan boroughs of Bermondsey, Cam- berwell, Deptford, Greenwich, Lewis- ham, Southwark and Woolwich, and the part of the metropolitan borough of Lambeth lying East of Kennington Park Road, Brixton Road and Brixton Hill.
8	The South-West Metro- politan Regional Hos- pital Area.	<p>The administrative counties of Dorset (except the part included in the South- Western Regional Hospital Area), Isle of Wight, Southampton, Surrey and Sussex, West.</p> <p>The county boroughs of Bournemouth, Croydon, Portsmouth, and Southamp- ton.</p> <p>So much of the administrative county of Wilts as comprises the boroughs of New Sarum and Wilton; and the rural districts of Amesbury, Mere and Tis- bury and Salisbury and Wilton.</p> <p>So much of the administrative county of London as comprises the metropol- itan boroughs of Battersea, Chelsea, Fulham, Wandsworth, the part of the metropolitan borough of Hammer- smith lying South of Goldhawk Road and Stamford Brook Road, the part of the metropolitan borough of Kensing- ton lying South of Holland Park Avenue, Notting Hill Gate and Bays- water Road, the part of the metro- politan borough of Lambeth lying West of Kennington Park Road, Brixton Road and Brixton Hill, the part of the metropolitan borough of Paddington lying South of Bayswater Road, and the part of the metropolitan borough of Westminster lying South-West of Park Lane and South of Constitution Hill, Birdcage Walk, Great George Street and Bridge Street.</p>
9	The Oxford Regional Hos- pital Area.	<p>The administrative counties of Berks (except the part included in the North- West Metropolitan Regional Hospital Area), Buckingham (except the part included in the North-West Metro- politan Regional Hospital Area), Northampton and Oxford.</p> <p>The county boroughs of Northampton, Oxford and Reading.</p> <p>So much of the administrative county of Gloucester as comprises the urban district of Cirencester; and the rural districts of Cirencester, North Cotswold and Northleach.</p>



Column 1 Number of Area	Column 2 Title of Area	Column 3 Description of Area
9	The Oxford Regional Hospital Area.— <i>contd.</i>	So much of the administrative county of Wilts as comprises the boroughs of Marlborough and Swindon; and the rural districts of Cricklade and Wootton Bassett, Highworth, Marlborough and Ramsbury and Pewsey.
10	The South-Western Regional Hospital Area.	The administrative counties of Cornwall, Devon, Gloucester, Somerset and Wilts (except the parts included in the South-West Metropolitan Regional Hospital Area and the Oxford Regional Hospital Area). The Isles of Scilly. The county boroughs of Bath, Bristol, Exeter, Gloucester and Plymouth. So much of the administrative county of Dorset as comprises the borough of Lyme Regis.
11	The Welsh Regional Hospital Area.	The whole of Wales and the administrative county of Monmouth.
12	The Birmingham Regional Hospital Area.	The county borough of Newport.
13	The Manchester Regional Hospital Area.	The administrative counties of Hereford, Salop, Stafford, Warwick and Worcester. The county boroughs of Birmingham, Burton-upon-Trent, Coventry, Dudley, Smethwick, Stoke-on-Trent, Walsall, West Bromwich, Wolverhampton and Worcester.
14	The Liverpool Regional Hospital Area.	The administrative counties of Chester (except the part included in the Liverpool Regional Hospital Area), Lancaster (except the part included in the Liverpool Regional Hospital Area) and Westmorland (except the part included in the Newcastle Regional Hospital Area). The county boroughs of Barrow-in-Furness, Blackburn, Blackpool, Bolton, Burnley, Bury, Manchester, Oldham, Preston, Rochdale, Salford, Stockport, and Wigan. So much of the county of Derby as comprises the boroughs of Buxton and Glossop; the urban districts of New Mills and Whaley Bridge; and the rural district of Chapel-en-le-Frith.
14	The Liverpool Regional Hospital Area.	The county boroughs of Birkenhead, Bootle, Chester, Liverpool, St. Helens, Southport, Wallasey and Warrington. So much of the administrative county of Chester as comprises the borough of Bebington; the urban districts of Ellesmere Port, Hoylake, Hoole, Lymm, Neston, Runcorn, and Wirral; and the rural districts of Chester, Runcorn and Tarvin.

Column 1 Number of Area	Column 2 Title of Area	Column 3 Description of Area
14	The Liverpool Regional Hospital Area.— <i>contd.</i>	So much of the administrative county of Lancaster as comprises the boroughs of Crosby and Widnes; the urban districts of Formby, Golborne, Haydock, Huyton with Roby, Litherland, Newton-le-Willows, Ormskirk, Prescott, Rainford and Skelmersdale; and the rural districts of Warrington, West Lancashire and Whiston.

[923]

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## OFFICERS OF LOCAL AUTHORITIES

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Compensation of Displaced Officers (War Service) (General Forms) Regulations, 1946	— — — 361	Compensation of Displaced Officers (War Service) (Electricity Undertakings) Order, 1946	— — 388

### ORDERS, CIRCULARS AND MEMORANDA

#### THE COMPENSATION OF DISPLACED OFFICERS (WAR SERVICE) (GENERAL FORMS) REGULATIONS, 1946

*S. R. & O., 1946, No. 956*

*June 25, 1946*

The Minister of Health, in exercise of the powers conferred on him by paragraph 11 of the Schedule to the Compensation of Displaced Officers (War Service) Act, 1945, hereby makes the following Regulations.

1. These Regulations may be cited as the Compensation of Displaced Officers (War Service) (General Forms) Regulations, 1946. [924]

2. The forms set out in the Schedule hereto or forms as near thereto as circumstances admit shall be the forms to be used in connection with a claim for compensation in all cases to which those forms are applicable. [925]

3. The Interpretation Act, 1889, applies to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [926]

#### SCHEDULE

##### NOTES

(1) A claim for compensation under section 2 of the Compensation of Displaced Officers (War Service) Act, 1945 (hereinafter called "the Act"), may be made by an officer of a local or public authority on war service who, by virtue of a change in the functions of that authority occurring in consequence of any such enactment

or statutory order (therein and hereinafter called "the special Act") as is mentioned in section 1 of the Act, has suffered direct pecuniary loss (a) by reason that, on ceasing to be engaged in war service, he was not re-employed in his former office or was so re-employed with reduced emoluments or (b) by reason of the determination of his office or the reduction of his emoluments after he was so re-employed. Claims falling within category (a) should be made in the form set out in Form No. 1 hereunder and the claim should be accompanied by a statement in the form set out in Form No. 2. Claims falling within category (b) should be made in the form set out in Form No. 3 and the claim should be accompanied by a statement in the form set out in Form No. 4.

(2) "War Service," as defined in section 8 of the Act, has the same meaning as in the Local Government Staffs (War Service) Act, 1939 :

Provided that, in a case where the said expression has a different meaning in the special Act, it bears the same meaning as in that Act.

(3) An officer of a local or public authority on war service, as defined in section 8 of the Act, means a person who at the date when the special Act came into operation was engaged in war service, having ceased to be an officer of the local or public authority in order to be so engaged or who, being an officer of that authority at that date, ceased on or after that date to be an officer of that authority in order to be so engaged. Claims may, however, also be made in certain circumstances by virtue of section 4 of the Act by persons who ceased to be on war service before the date when the special Act came into operation. Section 4 provides as follows :

"Where any person has been engaged on war service and it appears to the authority to whom any claim for compensation under section 2 or section 3 of this Act would be made by that person that he would have been entitled to claim such compensation but for the fact that his war service came to an end before the date on which the special Act came into operation . . . the authority may, if in all the circumstances of the case it considers it just to do so, pay the like compensation as if his war service had continued until the said date."

Claims under this provision should be made in the form set out in Forms No. 1 and No. 2 or Forms No. 3 and No. 4 as the case may require.

#### FORM NO. 1

#### COMPENSATION OF DISPLACED OFFICERS (WAR SERVICE) ACT, 1945

[Here insert short title of the special Act.]

*Claim for compensation for direct pecuniary loss by an officer who, on ceasing to be engaged in war service, was not re-employed in his former office or was so employed with reduced emoluments.*

To the [Here insert name of authority from whom compensation is recoverable]

I, .....  
hereby claim compensation for the direct pecuniary loss suffered by me in consequence of the change in functions effected by or under the above-mentioned special Act by reason whereof, on ceasing to be engaged on war service, I was not re-employed in my former office \*

re-employed in my former office with reduced emoluments \* as.....

in the  $\frac{\text{whole time}^*}{\text{part time}^*}$  service of the .....

A statement is attached giving particulars in support of my claim.

Signature .....

Address .....

.....

Date .....

## FORM NO. 2

## COMPENSATION OF DISPLACED OFFICERS (WAR SERVICE) ACT, 1945

[Here insert short title of the special Act.]

*Statement to accompany claim for compensation on Form No. 1*

1. Name in full .....
2. Date of Birth.....

3. Description of former  $\frac{\text{whole time}^*}{\text{part time}^*}$  office in which applicant has not been  
re-employed\* in which applicant has been re-  
employed with reduced  $\dagger$  emoluments\* .....

4. Date of commencement of war service and nature of such service.

5. Material date $\ddagger$  .....

6. Amount of annual pecuniary loss.....

7. The following are the grounds upon which I contend that the loss was sustained in consequence of the change in functions effected by or under the special Act.  
.....

8. (a) Particulars of the annual emoluments and expenses which I received and incurred in respect of the former office during the five years next before the material date or which I would have received and incurred during the said period if I had continued to be employed in that office until that date, are set out in Part I of the First Schedule hereto.

(b) In Part II of the First Schedule § are set out estimates of the annual emoluments of the office and of the expenses to be incurred by me in the office after the material date and a statement of any emoluments actually received and of any expenses actually incurred after the material date.

9. The date of appointment to the former office and the terms of the appointment were as follows.....\*

10\*\*. The date of re-employment in the former office and the terms on which I was re-employed are as follows.....

11. Particulars are set out in the Second Schedule hereto of all my service in any office || after attainment of the age of 18 years, including war service reckonable under paragraph 7¶ of the Schedule to the Act.

12. Immediately before the date on which I became engaged on war service the whole of my time  $\frac{\text{was devoted}^*}{\text{was not devoted}^*}$  to service in offices||.

13\*\*. I have not obtained by virtue of the special Act or of anything done in pursuance or in consequence thereof any increase of the emoluments enjoyed by me at the material date.

14\*\*. On the.....day of.....I obtained by virtue of the special Act or of something done in pursuance or in consequence thereof the following increase of the emoluments enjoyed by me at the material date.  
.....

15\*\*. On the..... day of..... (being a date not earlier than the material date) I accepted [the office [offices] of ..... [and] .....]\* [the public appointment  $\ddagger\ddagger$  [appointments] of..... [and] .....]\* the annual emoluments of which are £ s. d. [£ s. d., £ s. d., and £ s. d. respectively]\*.

16\*\*. I have not declined the emoluments of any office or public appointment which I might have obtained on or after the material date if I had accepted an offer made to me.

17\*\*. I have declined the emoluments of the following [office]\* [offices]\* [and public appointment]\* [appointments]\* which I might have obtained on or after the material date if I had accepted [an offer]\* [offers]\* made to me, namely.....

.....  
The emoluments of [this office]\* [these offices]\* [and this public appointment]\* [and these public appointments]\* were [respectively]\* as follows.....

.....  
My reasons for refusing them were.....

.....  
No other offer of the emoluments of an office or other public appointment was made to me.

18. No provision is made for compensating me for the aforesaid pecuniary loss by or under any other enactment which is for the time being in force except the special Act and the Reinstatement in Civil Employment Act, 1944.

19. I have made no claim for compensation in respect of the said loss under the special Act.

20. The following particulars relate to the fact that I was appointed as a specially qualified person or had before my appointment been employed (otherwise than in an office within the meaning of section 8 of the Act) as a deputy, assistant or clerk by a permanent officer for the purpose of the discharge of the latter's official duties

.....  
\* Strike out any words not required.

† Emoluments, as defined in section 8 of the Act, includes all salary, wages, fees, poundage and other payments paid or made to an officer as such for his own use, including the money value of any apartments, rations or other allowances in kind appertaining to his office, but does not include payments for overtime or any sum paid to him to cover travelling expenses, cost of office accommodation, assistance of deputies, or clerical or other assistance.

‡ "Material date," as defined in paragraph 12 (1) (a) of the Schedule to the Act, means in relation to an officer to whom this form is applicable the date on which he ceased to be engaged on war service.

§ Part II of the First Schedule is to be completed only in a case where the applicant has been re-employed with reduced emoluments.

|| "Office" as defined in section 8 of the Act, means any place, situation or employment, and "Officer" has a corresponding meaning.

¶ This paragraph is as follows :—

"(1) If an officer was temporarily absent from his office during the late war whilst serving in His Majesty's Forces, or the forces of the Allied or Associated Powers, either compulsorily or with the sanction or permission of the authority in whose employment he was immediately before such temporary absence, such period of temporary absence shall be reckoned as service under that authority :

Provided that in the case of an officer who, after the eleventh day of November, nineteen hundred and eighteen, voluntarily extended his term of service in the forces, no period of absence during any such extension shall be reckoned.

(2) Any period during which an officer has been engaged in war service within the meaning of the Local Government Staffs (War Service) Act, 1939, shall be reckoned as a period of service in his office."

\*\* Strike out this paragraph if not applicable.

†† "Public appointment," as defined in paragraph 12 of the Schedule to the Act, means any employment the emoluments of which are payable out of public funds.

FIRST SCHEDULE  
PART I

Statement of annual emoluments of the office and any expenses incurred in respect of the office up to material date, including emoluments and expenses which would have been received or incurred if applicant had continued in the office until that date.

	(1) Year ended .....	(2) Year ended .....	(3) Year ended .....	(4) Year ended .....	(5) Year ended .....	Totals	Annual rate of emoluments and expenses immediately before the material date .....
	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
1. Gross Emoluments :—							
(a) Salary .. ..							
(b) Wages .. ..							
(c) Fees .. ..							
(d) Other emoluments (specifying them)							
.....							
.....							
Total Emoluments .. ..							
2. Expenses :—							
(a) For office accommodation							
(b) For clerical assistance ..							
(c) Other expenses (specifying them)							
.....							
.....							
.....							
Total expenses .. ..							
3. Net Emoluments .. ..							

Claimant's  
Name

FIRST SCHEDULE (*continued*)

PART II

Estimate of annual emoluments and expenses of office after material date and statement of emoluments actually received and expenses actually incurred in respect thereof after that date.

Estimated emoluments and expenses of office			Emoluments received and expenses incurred	
Amount of annual salary or wages .. ..	..	..	Amount of salary or wages received or earned for period for material date to the .....	
" " fees .. ..	..	..	Amount of fees received or earned during the same period .. ..	
" " other emoluments (specifying them) per annum .....	per annum	..	Amount of other emoluments (specifying them) received or earned during the same period) .. ..	
..... per annum .....	per annum	..		
..... per annum .....	per annum	..		
Total .. ..	..	..	Total .. ..	
Estimated amount of expenses per annum (specifying items) .. ..	per annum	..	Amount of expenses incurred during the same period (specifying items) .. ..	
.....	..	..	.....	
.....	..	..	.....	
.....	..	..	.....	
.....	..	..	.....	
.....	..	..	.....	
.....	..	..	.....	
Net Emoluments .. ..	..	..	Net Emoluments .. ..	





## FORM No. 3

## COMPENSATION OF DISPLACED OFFICERS (WAR SERVICE) ACT, 1945.

[Here insert title of the special Act.]

*Claim for compensation for direct pecuniary loss by an officer whose appointment is determined or whose emoluments are reduced after re-employment in his former office.*

To the....[Here insert name of local or public authority from whom compensation is recoverable.]

I,..... hereby claim compensation for the direct pecuniary loss suffered by me in consequence of the change in functions effected by or under the above-mentioned special Act by reason whereof, on ceasing to be engaged on war service and after having been re-employed as.....in the

whole time \*  
part time \* service of the.....

my office was determined.\*

the emoluments of my office were reduced.\*

A statement is attached giving particulars in support of my claim.

Signature.....

Address.....

Date.....

[929]

## FORM No. 4

## COMPENSATION OF DISPLACED OFFICERS (WAR SERVICE) ACT, 1945.

[Here insert title of the special Act.]

*Statement to accompany claim for compensation on Form No. 3*

1. Name in full.....

2. Date of birth.....

3. Description of  $\frac{\text{whole time}^*}{\text{part time}^*}$  office which has been determined \*  
the emoluments of which have been reduced \*

4. Date of commencement of war service and nature of such service .....

5. Material date ‡.....

6. Amount of annual pecuniary loss.....

7. The following are the grounds upon which I contend that the loss was sustained in consequence of the change in functions effected by or under the special Act .....

8. (a) Particulars of the annual emoluments of the office and any expenses incurred by me in connexion with the office from the date of re-employment up to the material date are set out in Part I of the First Schedule hereto.

(b) In Part II of the First Schedule§ are set out estimates of the annual emoluments of the office and of the expenses to be incurred by me in the office after the material date and a statement of any emoluments actually received and of any expenses actually incurred after the material date.

9. The date of appointment to the former office and the terms of the appointment were as follows.....

10.\*\* The date of re-employment in the former office and the terms on which I was re-employed are as follows.....

11. Particulars are set out in the Second Schedule hereto of all my service in any

office || after attainment of the age of 18 years, including war service reckonable under paragraph 7 ¶ of the Schedule to the Act.

12. At the material date the whole of my time  $\frac{\text{was devoted } *}{\text{was not devoted } *}$  to service in offices.||

13.\*\* I have not obtained by virtue of the special Act or of anything done in pursuance or in consequence thereof any increase of the emoluments enjoyed by me at the material date.

14.\*\* On the.....day of.....I obtained by virtue of the special Act or of something done in pursuance or in consequence thereof the following increase of the emoluments enjoyed by me at the material date.

.....  
15.\*\* On the.....day of.....(being a date not earlier than the material date) I accepted [the office [offices] of.....[and] .....]\* [the public appointment †† [appointments] of.....[and].....]\* the annual emoluments of which are £ s. d. [£ s. d., £ s. d., and £ s. d. respectively].\*

16.\*\* I have not declined the emoluments of any office or public appointment which I might have obtained on or after the material date if I had accepted an offer made to me.

17.\*\* I have declined the emoluments of the following [office]\* [offices]\* [and public appointment]\* [appointments]\* which I might have obtained on or after the material date if I had accepted [an offer]\* [offers]\* made to me, namely.....

.....  
The emoluments of [this office]\* [these offices]\* [and this public appointment]\* [and these public appointments]\* were [respectively]\* as follows.....

.....  
My reasons for refusing them were .....

No other offer of the emoluments of an office or other public appointment was made to me.

18. No provision is made for compensating me for the aforesaid pecuniary loss by or under any other enactment which is for the time being in force except the special Act and the Reinstatement in Civil Employment Act, 1944.

19. I have made no claim for compensation in respect of the said loss under the special Act.

20. The following particulars relate to the fact that I was appointed as a specially qualified person or had before my appointment been employed (otherwise than in an office within the meaning of section 8 of the Act) as a deputy, assistant or clerk by a permanent officer for the purpose of the discharge of the latter's official duties.....

\* Strike out any words not required.

† "Emoluments", as defined in section 8 of the Act includes all salary, wages, fees, poundage and other payments paid or made to an officer as such for his own use, including the money value of any apartments, rations or other allowances in kind appertaining to his office, but does not include payments for overtime or any sum paid to him to cover travelling expenses, cost of office accommodation, assistance of deputies, or clerical or other assistance.

‡ "Material date", as defined in paragraph 12 (1) (b) of the Schedule to the Act means in relation to an officer to whom this form is applicable, the date on which his office was determined or his emoluments were reduced.

§ Part II of the First Schedule is to be completed only in a case where the office is not determined but there has been a reduction of emoluments.

|| "Office" as defined in section 8 of the Act means any place, situation or employment, and "Officer" has a corresponding meaning.

¶ This paragraph is as follows :—

"(1) If an officer was temporarily absent from his office during the late war whilst serving in His Majesty's Forces, or the forces of the Allied or

Associated Powers, either compulsorily or with the sanction or permission of the authority in whose employment he was immediately before such temporary absence, such period of temporary absence shall be reckoned as service under that authority :

Provided that in the case of an officer who, after the eleventh day of November nineteen hundred and eighteen, voluntarily extended his term of service in the forces, no period of absence during any such extension shall be reckoned.

(2) Any period during which an officer has been engaged in war service within the meaning of the Local Government Staffs (War Service) Act, 1939, shall be reckoned as a period of service in his office."

\*\* Strike out this paragraph if not applicable.

†† "Public appointment," as defined in paragraph 12 of the Schedule to the Act means any employment the emoluments of which are payable out of public funds.

FIRST SCHEDULE  
PART I

Statement of annual emoluments of the office and any expenses incurred in respect of the office from date of re-employment up to material date.

	(1) Year ended .....	(2) Year ended .....	(3) Year ended .....	(4) Year ended .....	(5) Year ended .....	Totals	Annual rate of emoluments and expenses immediately before the material date .....
	£   s.   d.	£   s.   d.	£   s.   d.	£   s.   d.	£   s.   d.	£   s.   d.	£   s.   d.
1. Gross emoluments :—							
(a) Salary .. .. .							
(b) Wages .. .. .							
(c) Fees .. .. .							
(d) Other emoluments (specifying them)							
.....							
.....							
Total Emoluments ..							
2. Expenses :—							
(a) For office accommodation							
(b) For clerical assistance ..							
(c) Other expenses (specifying them)							
.....							
.....							
Total expenses .. ..							
3. Net Emoluments .. ..							



## SECOND SCHEDULE

Particulars of service including War Service after attaining the age of 18 years.

Name of Local authority	Description of office	Whether whole-time or part-time	Date of commence- ment of service	Date of termination of service or diminution of enrolments	Period of whole-time service			Period of part-time service			Remarks
					Years	Months	Days	Years	Months	Days	
Totals .. ..											

I, ..... of ..... DO SOLEMNLY AND SINCERELY DECLARE that the foregoing statement  
in the ..... of ..... is a true statement to the best of my knowledge, information and belief, and I make this solemn declaration conscientiously believing the same to  
be true, and by virtue of the provisions of the Statutory Declarations Act, 1835.

Declared at .....  
in the ..... of .....  
this ..... day of ..... 19.....

Before me,  
.....  
\* [Justice of the Peace] \* [Commissioner for Oaths]

\* Strike out words not required.

## NOTE

Paragraph 1 (5) of the Schedule to the Act reads as follows :—

"A claimant, if so required by any member of the local authority by notice sent through the clerk of the authority, shall attend at a meeting of the authority, or of any committee appointed by the authority for the purpose, and answer on oath, which any justice of the peace present may administer, all questions asked by any member of the authority or committee touching the matters set forth in his claim and in his said statement, and shall further produce all books, papers and documents in his possession or under his control relating to the claim." [1930]



## FORM NO. 5

## COMPENSATION OF DISPLACED OFFICERS (WAR SERVICE) ACT, 1945

[Here insert title of the special Act.]

*Notice of Authority's decision on claim for compensation*

To.....

.....  
 You are hereby informed that the decision of the.....upon  
 the claim for compensation made by you on the.....19.....in  
 respect of .....is as follows :—

(a) That no compensation be granted to you.

(b) That an annuity of £.....(figures and words) be granted  
 to you as from the.....day of.....19.....  
 payable in equal  $\frac{\text{monthly}}{\text{quarterly}}$  instalments (on the.....day of each  
 month, the first payment being made on the .....day of  
 .....)\* (on the.....day of.....  
 the.....day of.....the.....day of  
 .....and the.....day of.....in  
 each year).\*

(c) That a capital sum of £..... (figures and words) be granted  
 to you, payable on the.....day of.....

Dated this.....day of.....19.....

Signed.....

Clerk of the Authority.

(a) (b) (c) The paragraphs which are inappropriate should be struck out.

\* Strike out words not required.

NOTES.—(1) If a claimant is aggrieved by the refusal of the authority to grant  
 any compensation or by the amount of compensation assessed, he may within  
 three months after the date on which he receives notice of the decision of the  
 authority appeal to the Minister of Health, Whitehall, London, S.W.1.

(2) The claimant should immediately notify the Authority in the event of his  
 becoming subject to the provisions of paragraph 10 of the Schedule to the Act,  
 which reads as follows :—

“ 10.—(1) If a person receiving compensation under the scheme or order—

(a) obtains any office or other public appointment ; or

(b) receives, by virtue of the special Act, or of anything done in pursu-  
 ance of or in consequence of the special Act, any increase of the  
 emoluments which were enjoyed by him at the date as at which  
 the compensation was assessed,

he shall not, so long as he holds that office or other public appointment or  
 receives those increased emoluments, be entitled to receive any greater sum  
 by way of compensation in respect of the office for which compensation is  
 awarded than would make up the amount, if any, by which the emoluments  
 which he is receiving fall short of the emoluments of the office in respect of  
 which compensation was awarded :

Provided that where a person held two or more offices at the date as at  
 which the compensation was assessed or has been awarded compensation in  
 respect of two or more offices, the Minister may, on the application of that  
 person or of any authority by whom the compensation is payable, modify  
 the operation of the foregoing sub-paragraph in relation to that person so far  
 as is, in the opinion of the Minister, necessary in order equitably to meet the  
 circumstances of the case.

(2) Where an officer to whom compensation has been awarded under any  
 scheme or order subsequently becomes entitled to a superannuation allowance  
 in respect of any office or other public appointment which he has accepted  
 after the material date, and in calculating the amount of such allowance

account is taken of any period of service in respect of which compensation is payable, then, if the compensation does not exceed such part of the superannuation allowance as is attributable solely to that service, the compensation shall cease to be payable, and if it exceeds such part of the superannuation allowance as aforesaid, it shall be reduced by an amount equal to that part of the allowance.

(3) Where an officer to whom compensation has been awarded under this Act has also recovered, whether before or after the award of compensation under this Act, compensation under the Reinstatement in Civil Employment Act, 1944, the last-named compensation shall be treated for the purposes of sub-paragraph (1) of this paragraph as if it were emoluments received by virtue of the special Act during the period of 12 months beginning with the date on which that compensation was recovered." [931]

#### FORM No. 6

### COMPENSATION OF DISPLACED OFFICERS (WAR SERVICE) ACT, 1945

[Here insert title of the special Act.]

#### *Notice of appeal to the Minister of Health by a claimant for compensation*

To the Minister of Health,  
Whitehall, London, S.W.1.

I, .....hereby appeal to the Minister of Health, being aggrieved by \*(i) the refusal of the.....† to grant any compensation \*(ii) the amount of compensation assessed by the.....† upon the claim delivered by me to them on the.....in respect of .....

I enclose a copy of my claim for compensation and of the statement which accompanied it, together with a statement of the grounds on which I am aggrieved by the decision of the above mentioned Authority, notice of which was received by me on.....‡

Dated this.....day of.....19.....

Signature .....

Address.....

\* Strike out (i) or (ii).

† Insert name of the local or public authority from whom the compensation is recoverable.

‡ Under paragraph 8 of the Schedule to the Act, the appeal must be lodged within three months after this date. If the requirements of the second paragraph of this Form cannot be complied with within that period, it will be sufficient if they are complied with as soon as possible thereafter, but it is essential that the appeal should be lodged within that period. [932]

\* \* \* \* \*

### THE COMPENSATION OF DISPLACED OFFICERS (WAR SERVICE) (FORMS FOR TEACHERS) REGULATIONS, 1946

*S. R. & O., 1946, No. 1354*

*August 2, 1946*

1. In these Regulations unless the context otherwise requires—

“Act” means the Compensation of Displaced Officers (War Service) Act, 1945.

“Emoluments” has the meaning assigned to that expression by Section 8 (1) of the Act.

"Local Education Authority" has the meaning assigned to that expression by Section 114 (1) of the Education Act, 1944.

"Material date" has the meaning assigned to that expression by paragraph 12 (1) of the Schedule to the Act.

"Minister" means the Minister of Education.

"Office" has the meaning assigned to that expression by Section 8 (1) of the Act.

"Public Appointment" has the meaning assigned to that expression by paragraph 12 (1) of the Schedule to the Act.

"War Service" has the meaning assigned to that expression by Section 14 (1) of the Local Government Staffs (War Service) Act, 1939. [933]

2. The Minister in pursuance of paragraph 11 of the Schedule to the Act hereby prescribes as follows :—

- (a) Every claim for compensation under Section 3 or Section 4 of the Act shall, if the claimant, on ceasing to be engaged in war service, was not re-employed, or was re-employed with reduced emoluments, be made in the form set out in Part I of the First Schedule to these Regulations and shall be accompanied by a statement in the form set out in Part II of the said Schedule.
- (b) Every claim for compensation under either of the Sections aforesaid shall, if the appointment of the claimant has been determined, or his emoluments reduced, after he was re-employed on ceasing to be engaged in war service, be made in the form set out in Part I of the Second Schedule to these Regulations and shall be accompanied by a statement in the form set out in Part II of the said Schedule.
- (c) Every decision of the Local Education Authority on a claim for compensation as aforesaid shall be given in the form set out in the Third Schedule to these Regulations.
- (d) Every notice of appeal to the Minister under paragraph 8 of the Schedule to the Act shall be given in the form set out in the Fourth Schedule to these Regulations :

Provided that the requirements of this Regulation may be deemed to have been fulfilled in any case if a form is used which is as near to the appropriate form hereinbefore prescribed as circumstances may permit. [934]

3. The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [935]

4. These Regulations may be cited as the Compensation of Displaced Officers (War Service) (Forms for Teachers) Regulations, 1946. [936]

\* \* \* \* \*

## FIRST SCHEDULE

### PART I

#### *Compensation of Displaced Officers (War Service) Act, 1945*

CLAIM FOR COMPENSATION FOR DIRECT PECUNIARY LOSS UNDER REGULATION 2 (a) OF THE COMPENSATION OF DISPLACED OFFICERS (WAR SERVICE) (FORMS FOR TEACHERS) REGULATIONS, 1946, BY A TEACHER WHO, ON CEASING TO BE ENGAGED IN WAR SERVICE, WAS NOT RE-EMPLOYED IN THE SCHOOL OR WAS SO RE-EMPLOYED WITH REDUCED EMOLUMENTS.

To the

I, \_\_\_\_\_, Local Education Authority,  
under the above-mentioned Act for the direct pecuniary loss suffered by me in consequence of the \_\_\_\_\_ School [becoming a \_\_\_\_\_ School]  
\_\_\_\_\_ Special Agreement \_\_\_\_\_  
\_\_\_\_\_ Controlled \_\_\_\_\_

[being discontinued on the                      day of                      19                      ] by  
 reason whereof, on ceasing to be engaged in war service, I was not re-employed  
 in the                      School                      re-employed in  
 the                      School with reduced emoluments as a teacher in the  
whole-time service of the  
part-time

A statement is attached giving particulars in support of my claim.

Signature .....

Address .....

Date ..... [1937]

## PART II

### *Compensation of Displaced Officers (War Service) Act, 1945*

STATEMENT TO ACCOMPANY A CLAIM FOR COMPENSATION UNDER REGULATION 2 (a)  
 OF THE COMPENSATION OF DISPLACED OFFICERS (WAR SERVICE) (FORMS FOR  
 TEACHERS) REGULATIONS, 1946.

1. Name in Full.

2. Date of Birth.

3. Description of former whole-time office in which applicant has not been  
part-time in which applicant has been re-  
re-employed  
employed with reduced emoluments.

4. Date of commencement of war service.

5. Nature of war service.

6. Material date.\*

7. Amount of annual pecuniary loss.

8. The following are the grounds upon which I contend that the loss was sus-  
 tained in consequence of the                      School [becoming a  
Special Agreement  
Controlled School] [being discontinued within 6 years after the passing  
 of the Education Act, 1944.]—

9.—(a) Particulars of the emoluments and expenses which I received and  
 incurred in respect of the former office during the five years next before the material  
 date, or which I would have received and incurred during the said period if I had  
 continued to be employed in that office until that date, are annexed hereto in the  
 form set out in Part I of Appendix I to the First Schedule to the Compensation of  
 Displaced Officers (War Service) (Forms for Teachers) Regulations, 1946.

(b) [Estimates of the emoluments of the office which I would have received and  
 of the expenses which I would have incurred after the material date if my emolu-  
 ments had not been reduced, together with a statement of any emoluments actually  
 received and of any expenses actually incurred after the material date, are annexed  
 hereto in the form set out in Part II of Appendix I to the First Schedule to the  
 Compensation of Displaced Officers (War Service) (Forms for Teachers) Regulations,  
 1946.]

10. The date of appointment to the former office and the terms of the appoint-  
 ment were as follows—

\* Material date for the purposes of this form means the date on which the  
 applicant ceased to be engaged in war service.

11. [The date of re-employment in the former office and the terms on which I was re-employed are as follows—]

12. Particulars are annexed hereto in the form set out in Appendix II to the First Schedule to the Compensation of Displaced Officers (War Service) (Forms for Teachers) Regulations, 1946, of all my service in any office after attainment of the age of 18 years, including any service which is reckoned as service under paragraph 7 of the Schedule to the Act.

13. Immediately before the date on which I became engaged in war service the whole of my time was  $\frac{\text{devoted}}{\text{not devoted}}$  to service in offices.

14. [I have not obtained by virtue of the Education Act, 1944, or of anything done in pursuance or in consequence thereof, any increase of the emoluments enjoyed by me at the material date.]

15. [On the \_\_\_\_\_ I obtained by virtue of the Education Act, 1944, or of something done in pursuance or in consequence thereof, the following increase of the emoluments enjoyed by me at the material date—]

16. [On the \_\_\_\_\_ (being a date not earlier than the material date) I accepted  $\frac{\text{the office [offices]}}{\text{the public appointment [appointments]}}$  of \_\_\_\_\_]

the annual emoluments of which are £ s. d. [and £ s. d. respectively]].

17. [I have declined the emoluments of the following office [offices] \_\_\_\_\_ public appointment [appointments] which I might have obtained on or after the material date, if I had accepted an offer [offers] made to me, namely :—

The emoluments of  $\frac{\text{this office [these offices]}}{\text{this public appointment [these public appointments]}}$  were [respectively] as follows :—

My reasons for refusing the said offer [offers] were :—

No other offer of an emolument of any office or public appointment has been made to me.]

18. [I have not received an offer of the emoluments of any office or public appointment on or after the material date.]

19. No provision is made for compensating me for the aforesaid pecuniary loss by or under any other enactment which is for the time being in force, except the Reinstatement in Civil Employment Act, 1944.

---

NOTE.—Omit any paragraph in square brackets which is not applicable.

## APPENDIX I

## PART I

*Statement of emoluments of the office and any expenses incurred in respect of the office up to material date, including emoluments and expenses which would have been received or incurred if applicant had continued in the office until that date.*

	(1) Year ended ..... £ s. d.	(2) Year ended ..... £ s. d.	(3) Year ended ..... £ s. d.	(4) Year ended ..... £ s. d.	(5) Year ended ..... £ s. d.	Totals  £ s. d.	Annual rates of emoluments and expenses immediately before the material date ..... £ s. d.
1. Gross emoluments :—							
(a) Salary .. .. .							
(b) Other emoluments (specify- ing them) .. .. .							
.....							
.....							
.....							
Total emoluments ..							
2. Expenses :—							
.....							
.....							
.....							
Total expenses ..							
3. Net emoluments ..							

## APPENDIX I

## PART II

*Estimate of emoluments and expenses of office after material date and statement of emoluments actually received and expenses actually incurred in respect thereof after that date.*

Estimated emoluments and expenses of office				Emoluments received and expenses incurred	
			£ s. d.		£ s. d.
Amount of annual salary .. .. .	..	..	..	Amount of salary received or earned for period from material date to the .....	day of .....
Amount of other emoluments (specifying them) .. .. .	..		..	Amount of other emoluments (specifying them) received or earned during the same period .. .. .	..
Total .. .. .	..	..	..	Total .. .. .	..
Estimated amount of expenses per annum (specifying items) .. .. .	..	..	..	Amount of expenses incurred during the same period (specifying items) .. .. .	..
Net emoluments .. .. .	..	..	..	Net emoluments .. .. .	..

## NOTE

The statement should only include the information provided for in this part of Appendix I in a case where the applicant has been re-employed in his former office but with a reduction of his emoluments.



## APPENDIX II

*Particulars of Service after attaining the age of 18 years.*

[illegible]

I, ..... of ..... DO SOLEMNLY AND SINCERELY DECLARE that ..... in the County of ..... the foregoing statement is a true statement to the best of my knowledge, information and belief, and I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the Statutory Declarations Act, 1835.

Declared at.....  
in the County of .....  
this.....day of .....19.....

Signature.....

Before me,

.....  
**Justice of the Peace or Commissioner for Oaths**

## NOTE

This declaration will require a 2s. 6d. stamp, which should be impressed before the declaration is made. [938]

## SECOND SCHEDULE

## PART I

*Compensation of Displaced Officers (War Service) Act, 1945*

CLAIM FOR COMPENSATION FOR DIRECT PECUNIARY LOSS UNDER REGULATION 2 (b) OF THE COMPENSATION OF DISPLACED OFFICERS (WAR SERVICE) (FORMS FOR TEACHERS) REGULATIONS, 1946, BY A TEACHER WHO, ON CEASING TO BE ENGAGED IN WAR SERVICE, WAS RE-EMPLOYED IN THE SCHOOL, BUT WHOSE APPOINTMENT WAS SUBSEQUENTLY DETERMINED OR WHOSE EMOLUMENTS WERE SUBSEQUENTLY REDUCED.

To the Local Education Authority.  
I, hereby claim compensation  
under the above-mentioned Act for the direct pecuniary loss suffered by me in  
consequence of the School [becoming a Special Agreement School]  
[being discontinued on the day of 19 ] by  
reason whereof, having been re-employed on ceasing to be engaged in war service  
in the School as a teacher in the whole-time service  
of the , my part-time appointment was subsequently  
determined. emoluments were subsequently  
reduced.

A statement is attached giving particulars in support of my claim.

Signature .....

Address .....

Date.....

[ 939 ]

## PART II

*Compensation of Displaced Officers (War Service) Act, 1945*

STATEMENT TO ACCOMPANY A CLAIM FOR COMPENSATION UNDER REGULATION 2 (b) OF THE COMPENSATION OF DISPLACED OFFICERS (WAR SERVICE) (FORMS FOR TEACHERS) REGULATIONS, 1946.

1. Name in Full.

2. Date of Birth.

3. Description of whole-time office which has been determined.  
part-time the emoluments of which have been reduced.

4. Date of commencement of war service.

5. Nature of war service.

6. Material date.\*

7. Amount of annual pecuniary loss.

8. The following are the grounds on which I contend that the loss was sustained  
in consequence of the School [becoming a Special Agreement  
school] [being discontinued within six years after the passing of the Education  
Act, 1944] :—

9.—(a) Particulars of the emoluments and expenses which I received and

\* Material date for the purposes of this form means the date on which the determination of office or the reduction of emoluments took effect.

incurred in respect of the office from the date of re-employment until the material date are annexed hereto in the form set out in Part I of Appendix I to the Second Schedule to the Compensation of Displaced Officers (War Service) (Forms for Teachers) Regulations, 1946.

(b) [Estimates of the emoluments of the office which I would have received and of the expenses which I would have incurred after the material date if my emoluments had not been reduced, together with a statement of any emoluments actually received and of any expenses actually incurred after the material date, are annexed hereto in the form set out in Part II of Appendix I to the Second Schedule to the Compensation of Displaced Officers (War Service) (Forms for Teachers) Regulations, 1946.]

10. The date of appointment to the former office and the terms of the appointment were as follows—

11. The date of re-employment in the office and the terms on which I was re-employed are as follows—

12. Particulars are annexed in the form set out in Appendix II to the Second Schedule to the Compensation of Displaced Officers (War Service) (Forms for Teachers) Regulations, 1946, of all my service in any office after attainment of the age of 18 years, including any service which is reckoned as service under paragraph 7 of the Schedule to the Act.

13. At the material date the whole of my time was  $\frac{\text{devoted}}{\text{not devoted}}$  to service in offices.

14. [I have not obtained by virtue of the Education Act, 1944, or of anything done in pursuance or in consequence thereof, any increase of the emoluments enjoyed by me at the material date.]

15. [On the \_\_\_\_\_ I obtained by virtue of the Education Act, 1944, or of something done in pursuance or in consequence thereof, the following increase of the emoluments enjoyed by me at the material date—]

16. [On the \_\_\_\_\_ (being a date not earlier than the material date) I accepted  $\frac{\text{the office [offices]}}{\text{the public appointment [appointments]}}$  of the annual emoluments of which are £ \_\_\_\_\_ s. d. [and £ \_\_\_\_\_ s. d. respectively]].

17. [I have declined the emoluments of the following office [offices] \_\_\_\_\_ which I might have obtained on or after the public appointment [appointments] \_\_\_\_\_ material date if I had accepted an offer [offers] made to me namely—

The emoluments of  $\frac{\text{this office [these offices]}}{\text{this public appointment [these public appointments]}}$  were [respectively] as follows—

My reasons for refusing the said offer [offers] were—

No other offer of an emolument of any office or public appointment has been made to me.]

18. [I have not received an offer of the emoluments of any office or public appointment on or after the material date.]

19. No provision is made for compensating me for the aforesaid pecuniary loss by or under any other enactment which is for the time being in force, except the Reinstatement in Civil Employment Act, 1944.

NOTE.—Omit any paragraph in square brackets which is not applicable.

## APPENDIX 1

## PART I

*Statement of emoluments of the office and any expenses incurred in respect of the office from date of re-employment up to material date.*

	(1) Year ended	(2) Year ended	(3) Year ended	(4) Year ended	(5) Year ended	Totals	Annual rates of emoluments and expenses immediately before the material date
	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
1. Gross Emoluments :—							
Salary .. .. .							
Other emoluments (specifying them)							
.....							
.....							
.....							
.....							
.....							
Total Emoluments ..							
2. Expenses :—							
.....							
.....							
.....							
.....							
.....							
Total expenses .. ..							
3. Net Emoluments .. ..							

## APPENDIX I

## PART II

*Estimate of emoluments and expenses of office after material date and statement of emoluments actually received and expenses actually incurred in respect thereof after that date.*

Estimated emoluments and expenses of office			Emoluments received and expenses incurred		
		£ s. d.			£ s. d.
Amount of annual salary .. .. .	.. .. .	.. .. .	Amount of salary received or earned for period from material date to the .....	day of .....	.. .. .
Amount of other emoluments (specifying them) .. .. .	.. .. .	.. .. .	Amount of other emoluments (specifying them) received or earned during the same period .. .. .	.. .. .	.. .. .
Total .. .. .	.. .. .	.. .. .	Total .. .. .	.. .. .	.. .. .
Estimated amount of expenses per annum (specifying items) .. .. .	.. .. .	.. .. .	Amount of expenses incurred during the same period (specifying items) .. .. .	.. .. .	.. .. .
Net emoluments .. .. .	.. .. .	.. .. .	Net emoluments .. .. .	.. .. .	.. .. .

## NOTE

The statement should only include the information provided for in this part of Appendix I in a case where the applicant having been re-employed in his former office has subsequently suffered a reduction of his emoluments.



## THIRD SCHEDULE

NOTICE OF LOCAL EDUCATION AUTHORITY'S DECISION  
ON CLAIM FOR COMPENSATION*Compensation of Displaced Officers (War Service) Act, 1945*

To

You are hereby informed that the decision of the Local Education Authority upon the claim for compensation made by you under the above-mentioned Act on the 19 , in respect of

is as follows :—

(a) [that no compensation be granted to you ;]  
 (b) [that an annuity of £ (figures and words) be granted to you as from the day of 19 , payable in equal monthly quarterly instalments on the day of the month, the first payment being made on the on the day of , the day of day of , the day of , and the day of , in each year.]

(c) [that a capital sum of £ (figures and words) be granted to you, payable on the day of .]

If you are aggrieved by the refusal of the Local Education Authority to grant any compensation, or by the amount of compensation assessed, you may within three months after the date on which you received the above decision of the Local Education Authority appeal to the Minister of Education, Belgrave Square, London, S.W.1.

[You should immediately notify the Local Education Authority in the event of your becoming subject to the provisions of paragraph 10 of the Schedule to the Act, the effect of which is as follows :—

(1) If a person receiving compensation under the Act—

(a) obtains any office or other public appointment ; or

(b) receives, by virtue of the Education Act, 1944, or of anything done in pursuance of or in consequence of that Act, any increase of the emoluments which were enjoyed by him at the date as at which the compensation was assessed,

he shall not, so long as he holds that office or other public appointment, or receives those increased emoluments, be entitled to receive any greater sum by way of compensation in respect of the office for which compensation is awarded than would make up the amount, if any, by which the emoluments which he is receiving falls short of the emoluments of the office in respect of which compensation was awarded : Provided that where a person held two or more offices at the date as at which the compensation was assessed, or has been awarded compensation in respect of two or more offices, the Minister of Education may, on the application of that person, or of any Authority by whom the compensation is payable, modify the operation of the foregoing sub-paragraph in relation to that person so far as is, in the opinion of the Minister, necessary in order equitably to meet the circumstances of the case.

(2) Where an officer to whom compensation has been awarded under the Act subsequently becomes entitled to a superannuation allowance in respect of any office or other public appointment which he has accepted after the material date, and in calculating the amount of such allowance account is taken of any period of service in respect of which compensation is payable, then, if the compensation does not exceed such part of the superannuation allowance as is attributable solely to that service, the compensation shall cease to be payable, and if it exceeds such part of the superannuation allowance as aforesaid, it shall be reduced by an amount equal to that part of the allowance.



(3) Where an officer to whom compensation has been awarded under the Act has also recovered, whether before or after the award of compensation under the Act, compensation under the Reinstatement in Civil Employment Act, 1944, the last named compensation shall be treated for the purposes of sub-paragraph (1) of this paragraph as if it were emoluments received by virtue of the Education Act, 1944, during the period of twelve months beginning with the date on which that compensation was recovered.]

Dated this      day of

19 .

Signed.....

Clerk of the Council. "

NOTE : Omit any paragraph in square brackets which is not applicable. [941]

#### FOURTH SCHEDULE

##### NOTICE OF APPEAL TO THE MINISTER OF EDUCATION BY A CLAIMANT FOR COMPENSATION

*Compensation of Displaced Officers (War Service) Act, 1945*

To the Minister of Education,  
Belgrave Square, London, S.W.1.

I , hereby appeal to the Minister of  
Education, being aggrieved by a refusal of the      Local Education  
the amount of compensation assessed by the  
Authority to grant any compensation  
Local Education Authority upon the claim delivered by me to the  
Authority on the      in respect of .

I enclose a copy of my claim for compensation and of the statement which accompanied it, together with a statement of the grounds on which I am aggrieved by the decision of the Local Education Authority, notice of which was received by me on

Dated this      day of

19 .

Signature .....

Address.....

.....

[942]

#### THE COMPENSATION OF DISPLACED OFFICERS (WAR SERVICE) (ELECTRICITY UNDERTAKINGS) ORDER, 1946

*S. R. & O., 1946, No. 2176*

*December 21, 1946.*

Whereas it appears to His Majesty that provision is made by certain enactments hereinafter mentioned for the compensation of persons employed by electricity undertakers or railway companies, being persons, who suffer loss of employment or are otherwise prejudiced in their conditions of employment in consequence of certain changes affecting the exercise of functions of electricity undertakers and railway companies, and that it is expedient to make provision by Order in Council under section five of the Compensation of Displaced Officers (War Service) Act, 1945, for the compensation of persons who, by reason of their temporary absence from their employment

while engaged on war service, are not entitled to compensation under the enactments aforesaid :

Now, therefore, His Majesty, in pursuance of His powers under the said section five and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council to order, and it is hereby ordered, as follows :—

1. Subject to the provisions of this Order, if an officer of any electricity undertakers or railway company on war service proves to the satisfaction of a referee or board of referees appointed by the Minister of Labour and National Service that, in consequence of any change to which this Order applies affecting the exercise of functions of those undertakers or that company, he—

- (a) on ceasing to be engaged in war service, was not re-employed in his former office or was so re-employed with reduced emoluments ;
- (b) after being so re-employed, relinquished his employment in consequence of being required to perform duties such as were not analogous or were an unreasonable addition to those of his former office ;
- (c) after being so re-employed, was placed in any worse position with respect to the conditions of his service (including tenure of office, remuneration, gratuities, pension, superannuation, sick or other fund, or any benefits or allowances, whether obtaining legally or by customary practice) ;

and the compensating authority do not show to the satisfaction of the referee or board of referees that equivalent employment on the like conditions as those of his former office was available, there shall be paid to him by that authority such compensation as the referee or board of referees may award, including any expenses necessarily incurred by the officer in removing to another locality :

Provided that such compensation shall, in the case of an officer employed on an annual salary be based on, but not exceed, the amount which would have been payable to a person on abolition of office under the Acts and rules relating to His Majesty's Civil Service in force at the date of the passing of the Local Government Act, 1888, but in computing the period of service of any officer, service under any other electricity undertakers or, as the case may be, other railway company shall be reckoned as service under the electricity undertakers or railway company in whose employment he was immediately before he became engaged in war service, and any period during which any such officer was temporarily absent on war service from his employment shall be reckoned as service under the electricity undertakers or railway company in whose employment he was immediately before such temporary absence. [943]

2. This Order shall apply to the following changes affecting the exercise of functions of electricity undertakers and railway companies, being changes to which section sixteen of the Electricity (Supply) Act, 1919 (whether as originally enacted or as amended or applied by any subsequent enactment or statutory order), or the Fourth Schedule to the Electricity (Supply) Act, 1926 (whether as originally enacted or as amended or applied by any subsequent enactment or statutory order) apply, that is to say,—

- (a) any transfer, cessation of operation or change in the method of operation, of the whole or any part of an electricity undertaking ;
- (b) the closing (permanent or temporary) or acquisition of the whole or any part, of any generating station or main transmission line belonging to electricity undertakers, or the making of restrictions or arrangements affecting the working or use of any such generating station ; or
- (c) the cessation of operation, in whole or in part, of any generating station

belonging to a railway company, by reason of the giving of a direct supply to the company by the Central Electricity Board. [944]

3. No person shall be entitled to recover compensation under this Order for any loss suffered by him by reason of his not being re-employed in his former employment on ceasing to be engaged in war service unless, within two months from the date on which he ceased to be so engaged or the date on which this Order was made, whichever is the later, he gives notice in writing to the undertakers or railway company concerned that he is available for re-employment :

Provided that, if the said person was prevented from giving such notice within the said two months by his sickness or other reasonable cause, the notice may be given as soon as reasonably may be after the expiration of that period. [945]

4. Where any person who is entitled to recover compensation under this Order or has been awarded compensation under this Order, recovers compensation under the Re-instatement in Civil Employment Act, 1944, the amount awarded under this Order shall be reduced by the amount recovered under the said Act or by such part of that amount as the referee or board of referees making the award under this Order thinks fit. [946]

5. This Order shall apply to changes affecting the exercise of functions of any electricity undertakers or railway company, whether they occurred before or after the date on which this Order was made. [947]

6.—(1) In this Order the following expressions have the meanings hereby respectively assigned to them, that is to say :—

“ electricity undertakers ” means authorised undertakers and joint electricity authorities within the meaning of the Electricity (Supply) Act, 1919, the Central Electricity Board and the North of Scotland Hydro-Electric Board and “ electricity undertaking ” shall be construed accordingly ;

“ officer on war service ” means, in relation to any electricity undertakers or railway company, a person who, at the date when the change affecting the exercise of functions of those undertakers or that company occurred, was engaged in war service, having ceased to be an officer regularly employed by those undertakers or that company in order to be so engaged or who, being an officer regularly employed by those undertakers or that company at that date, ceased, on or after that date, to be such an officer, in order to be so engaged ;

“ railway company ” means any person authorised by any enactment or statutory order to carry on a railway undertaking ;

“ war service ” means service in His Majesty’s forces or the forces of Allied or associated powers or in any other employment of national importance during the period of the present emergency as defined by the Local Government Staffs (War Service) Act, 1939, and also includes, as respects the reference at the end of Article 1 of this Order to the temporary absence of an officer on war service, such war service as is referred to in section sixteen of the Electricity (Supply) Act, 1919.

(2) References in Article 1 of this Order to the compensating authority shall be construed, in relation to any change affecting the exercise of functions of any electricity undertakers or railway company, as referring to the authority or authorities by whom compensation is payable, under such of the enactments and statutory orders referred to in Article 2 of this Order as are applicable to the said change, to officers of the undertakers or company who are not officers on war service.

(3) References in Article 1 of this Order to an officer employed on an annual salary shall, in relation to any change to which section sixteen of the

Electricity (Supply) Act, 1919, or the Fourth Schedule to the Electricity (Supply) Act, 1926, are applied with adaptations by the Hydro-Electric Development (Scotland) Act, 1943, be construed as references to an officer employed in the performance of administrative, professional, clerical, supervisory or technical duties not being a person employed by way of manual labour on a weekly or less than a weekly wage.

(4) References in Article 1 of this Order to the re-employment of any person with reduced emoluments shall be construed as referring to re-employment with emoluments less than those which he would have received in respect of employment in his former office immediately before the date on which he ceased to be engaged in war service if he had continued to be so employed until that date. [948]

7.—(1) This Order may be cited as the Compensation of Displaced Officers (War Service) (Electricity Undertakings) Order, 1946.

(2) The Interpretation Act, 1889, shall apply for the purpose of the interpretation of this Order as it applies for the purpose of the interpretation of an Act of Parliament. [949]

\* \* \* \* \*

### EXPLANATORY NOTE

*(This Note is not part of the Order, but is intended to indicate its general purport.)*

*The Electricity (Supply) Act, 1919, and certain subsequent enactments and statutory orders provide for the compensation of persons employed in electricity undertakings who lose their employment, or whose pay or other conditions of employment are worsened as the result of the transfer or closing down of the electricity undertaking, or any change in its method of operation. Compensation is also provided, by virtue of the Electricity (Supply) Act, 1926, and later enactments and statutory orders, for persons employed in electricity undertakings or in railway companies in cases where generating stations are closed or restricted in operation by the Central Electricity Board or the North of Scotland Hydro-Electric Board, and where generating stations of railway companies cease to operate as the result of the furnishing of a direct supply by the Central Electricity Board.*

*These provisions, however, do not apply to persons so employed who, at the material time, were absent on war service.*

*Accordingly, this Order, which is made under Section 5 of the Compensation of Displaced Officers (War Service) Act, 1945, extends the right to compensation to persons who, had they not been absent on war service, would otherwise have enjoyed this right, and is on similar lines to the provisions of Section 2 of that Act dealing with officers of local authorities.*

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## PERSONS OF UNSOUND MIND

ORDERS, CIRCULARS AND MEMORANDA :—

Mental Nurses (Employment and Offences) (Revocation) Order, 1946

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### ORDERS, CIRCULARS AND MEMORANDA

#### THE MENTAL NURSES (EMPLOYMENT AND OFFENCES) (REVOCATION) ORDER, 1946

S. R. & O., 1946, No. 830

June 5, 1946

The Minister of Health in pursuance of the powers conferred on him by regulation 98 of the Defence (General) Regulations, 1939, as continued in

force by the Emergency Laws (Transitional Provisions) Act, 1946, and of all other powers enabling him in that behalf, hereby orders as follows :—

1. The Mental Nurses (Employment and Offences) Order, 1941, and the Mental Nurses (Employment and Offences) Amendment Order, 1944 (which were made by the Minister of Health under regulation 32AB of the Defence (General) Regulations, 1939, and require, subject to certain conditions, persons employed as nurses in certain mental institutions to continue in their employment), are hereby revoked. [950]

2. This order may be cited as the Mental Nurses (Employment and Offences) (Revocation) Order, 1946, and shall come into operation on the 20th day of June, 1946. [951]

\* \* \* \* \*

## POLICE

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## STATUTES

### POLICE ACT, 1946

(9 & 10 Geo. 6, c. 46)

#### PRELIMINARY NOTE

Before the passing of the present Act, there existed only one way in which a permanent reorganisation of police forces of England and Wales could be effected ; namely, under s. 14 of the County Police Act, 1840 (12 Halsbury's Statutes 790), which, as extended by s. 5 of the County and Borough Police Act, 1856 (*ibid.* 813), provided for the consolidation of a borough police force (either county borough or non-county borough) with that of the county either by agreement, or, in the absence of agreement, by Order in Council. In addition, a wide measure of reorganisation, but for a limited purpose and of temporary duration, could be effected under the Defence (Amalgamation of Police Forces) Regulations, 1942, S. R. & O., 1942, No. 1443, which empowered the Home Secretary to make orders amalgamating two or more police areas when he considered such amalgamation necessary for war purposes. Various Committees have from time to time considered this question of reorganisation of police forces. The Desborough Committee, which was appointed in 1919 to consider and advise on the police service, recommended in its Second Report issued in 1920 (*vide* paragraph 105 thereof) that separate non-county borough police forces should be merged in the county forces and that no new force should be established in any non-county borough. The matter was again considered in 1932 by a Select Committee of the House of Commons which endorsed the recommendation of the Desborough Committee in the case of non-county

boroughs with populations of less than 30,000 and recommended the encouragement of voluntary amalgamations between county and county borough police forces. In addition, a Departmental Committee appointed by the Home Secretary on Detective Work and Procedure, which reported in 1938, stressed the desirability of adopting larger police force units, on account of the increased specialisation required in a police force as a result of scientific development in methods of detection, and the need for co-ordination of police activity over wider areas owing to the greater range and speed of movement afforded to criminals by modern means of transport.

The Police Act, 1946, implements the recommendation of the Desborough Committee for the abolition of non-county boroughs as separate police areas, and, in the light of the experience of the wartime amalgamations, provides machinery for the permanent amalgamation of two or more police areas being counties or county boroughs. There are a number of provisions incidental to the above objects, and in addition power is given to councils of counties and county boroughs compulsorily to purchase land for police purposes, and provision is made for rectification of the Metropolitan Police District, the boundaries of which were last delimited in 1840.

S. 1 abolishes, as from April 1, 1947, non-county boroughs as separate police areas and merges them with the county areas in which they are respectively situated. Members of the police force of a borough ceasing to be a separate area are to be transferred to the county police force, and officers employed by the council of the borough for police purposes are to be transferred to the council of the county. Provision is made by s. 2 and the First Schedule for an adjustment of rates consequent upon the abolition of non-county borough police forces. A non-county borough with a population exceeding half that of the population of the county is to be treated for the purposes of the Act as if it were a county borough, and this has the effect of exempting from the provisions of s. 1 the two non-county boroughs of Cambridge and Peterborough (s. 17 (1)).

S. 3 provides for the making of voluntary schemes, which must be approved by the Home Secretary, for the amalgamation of two or more county or county borough police forces, and s. 4 provides for compulsory amalgamation where the Home Secretary considers such an amalgamation expedient in the interests of efficiency and where no satisfactory scheme for voluntary amalgamation has been submitted to him. No scheme will be made by the Home Secretary for the compulsory amalgamation of a county or county borough having a population of 100,000 or more with a police force area or areas of a greater population, unless the county or county borough assents to such amalgamation (s. 4 (1) proviso); and in any case, unless the police authorities concerned assent to a proposed scheme for compulsory amalgamation, the Home Secretary is to cause a local inquiry to be held, and is to lay a draft of his proposed scheme, together with the report of the person who held the inquiry, before Parliament, where the scheme is to be subject to negative resolution of either House (s. 4 (2), (3)). Amalgamation schemes made under ss. 3 and 4 may be amended or revoked by subsequent schemes made under either of those sections (s. 6).

S. 5 lays down the constitution and specifies the powers of a combined police authority constituted by an amalgamation scheme, and in particular confers upon such authority the same powers of compulsory acquisition of land as are conferred on county and county borough councils. S. 7 provides for the making of an anticipatory scheme with respect to a county or county borough newly constituted by an order made under the Local Government (Boundary Commission) Act, 1945 (38 Halsbury's Statutes 314), so that such scheme may come into force on the date specified in the order constituting the new area. S. 8 provides for any adaptation of local Acts conferring or imposing special powers or duties on the police, which may be necessary as a result of the abolition of non-county boroughs or the amalgamation of police areas. S. 9 and the Third Schedule contain certain transitory provisions which are applicable on alterations to police areas affected either by the abolition under s. 1 of non-county boroughs as police areas, or by amalgamation under ss. 3 or 4. S. 10 provides for the payment of compensation to any person whose appointment is terminated or whose emoluments are diminished through any provisions of the Act. S. 11 deals with the position of chief constables of non-county borough forces and of constituent forces which are amalgamated. The

chief constable of one of the constituent forces is, in accordance with this section, to be chief constable of the combined force unless the Home Secretary is satisfied that no such chief constable is suitable for the appointment. S. 12 repeals ss. 14 and 15 of the County Police Act, 1840 (12 Halsbury's Statutes 790) and ss. 5 and 20 of the County and Borough Police Act, 1856 (*ibid.* 813, 816), relating to the consolidation of borough with county police forces, and provides for the termination of "consolidation agreements" made under those Acts. S. 13 revokes the Defence (Amalgamation of Police Forces) Regulations, 1942 (S. R. & O., 1942, No. 1443), made under the Emergency Powers (Defence) Acts, 1939 and 1940 (32 Halsbury's Statutes 930; 33 Halsbury's Statutes 541), and provides for the revocation of amalgamation orders made thereunder. S. 14 provides that the rights of a member of a police force engaged on war service to whom the Police and Firemen (War Service) Act, 1939, s. 1 (32 Halsbury's Statutes 1150) applies, or who is serving overseas under the provisions of s. 2 of the Police (Overseas Service) Act, 1945 (38 Halsbury's Statutes 363), shall not be prejudiced by reason of the abolition or amalgamation of the police force to which he belonged.

S. 15 empowers any county council or county borough council compulsorily to acquire land required for police purposes. Since the passing of the Act, the section as originally enacted has been amended by s. 6 of and the Fourth Schedule to the Acquisition of Land (Authorisation Procedure) Act, 1946, pp. 232, 252, *ante*, to bring the procedure for the making of compulsory purchase orders under this section into line with the uniform procedure established by that Act.

S. 16 provides for the rectification, as from April 1, 1947, of the boundaries of the Metropolitan Police District. The present boundaries which were last delimited by an Order in Council made in 1840 (S. R. & O. Rev., 1904, VIII, Metropolitan and City Police Districts, p. 1) will be replaced as from April 1, 1947, by boundaries conforming to the local authorities' boundaries as specified in the Fourth Schedule. [952]

## ARRANGEMENT OF SECTIONS

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*An Act to abolish non-county boroughs as separate police areas ; to provide for the amalgamation of county and county borough police areas ; to provide for the purchase of land for police purposes by compulsory purchase order ; to redefine the Metropolitan Police District ; and for purposes connected with the matters aforesaid. [953]* [15th April, 1946.]

*Abolition of non-county boroughs as separate police areas and amalgamation of county and county borough forces*

**1. Abolition of non-county borough police forces.**—(1) On the appointed day every police area consisting of a non-county borough shall cease to be a separate police area, and every such borough, and every borough which is constituted as such after the appointed day, or, being a county borough on that day, ceases thereafter to be a county borough, shall be treated for all purposes as part of the police area of the county in which it is situated. [954]

(2) Subject to the provisions of this Act with respect to chief constables, every person who, immediately before the date of transfer, was a member of the police force of a borough which ceases to be a separate police area by virtue of this section shall be transferred to and become a member of the county police force. [955]

(3) Except as may be otherwise provided by an agreement made (whether in consideration of a payment of money or otherwise) between the council of any such borough as aforesaid and the standing joint committee acting with the concurrence of the council of the county,—

(a) all officers who, immediately before the date of transfer, were employed by the council of the borough solely or mainly for the purposes of the exercise by that council, or by the watch committee of the borough, of any police functions shall be transferred to and become officers of the council of the county and shall hold office by the same tenure and on the same conditions as immediately before that date, and, while performing similar duties shall, in respect thereof, receive not less salary or remuneration than the salary or remuneration to which they would have been entitled if they had not been transferred ; and

(b) all property which immediately before the date of transfer was held by the council of the borough solely or mainly for police purposes, and all rights and liabilities, whether vested or contingent, to which any such council were entitled or subject immediately

before that date by reason of the exercise of any of their police functions, shall be transferred by virtue of this section to the council of the county. [956]

(4) As from the appointed day, Part IX of the Municipal Corporations Act, 1882 (which relates to borough police forces), except section one hundred and ninety of that Act (which provides for the appointment of a watch committee), shall cease to have effect except as respects county boroughs, and references to boroughs in any other enactment relating to county or borough police forces shall be construed as not including references to non-county boroughs. [957]

*Effect of section.*—See Preliminary Note, *ante*.

*Appointed day.*—April 1, 1947 (see s. 19, *post*).

*Non-county borough.*—A non-county borough with a population more than half that of the county is to be treated as a county borough for the purposes of the Act (see s. 17 (1), *post*). The non-county boroughs affected are Peterborough and Cambridge. Excluding these two non-county boroughs there are 45 non-county boroughs which maintained separate police forces and are consequently affected by this section.

*Chief constables.*—For provisions, see s. 11, *post*.

*Officers.*—This term includes “servants” (see s. 19, *post*). As used in this subsection it is intended to refer to the clerical or other staff of the council, not to police officers (see Home Secretary’s statement in Standing Committee (H. of C. Official Report, S.C.B., January 29, 1946, col. 44)).

*Sub-s. (3).*—For the adjustment by agreement between the authorities concerned of rights and liabilities on transfer and for the settlement by arbitration of any question arising out of the transfer, see s. 9 (3), (4), *post*.

*Part IX of the Municipal Corporations Act, 1882.*—10 Halsbury’s Statutes 636.

*Definitions.*—For definitions of “standing joint committee” and “date of transfer,” see s. 19, *post*.

**2. Adjustment of rates in consequence of abolition of non-county borough police forces.**—Where the Secretary of State is satisfied that the amount of the rate required to be raised by the council of a non-county borough will be substantially increased by reason of the inclusion of the borough in the county police area under the provisions of this Act, he may by order direct that the provisions of the First Schedule to this Act shall apply in relation to the county in which the borough is comprised, and those provisions shall apply accordingly. [958]

*Effect of section.*—See Preliminary Note, *ante*, and notes to Sched. I, *post*.

**3. Voluntary schemes for the amalgamation of county and county borough police forces.**—(1) If it appears to the police authorities for any two or more police areas being counties or county boroughs that it is expedient that those areas should be amalgamated for police purposes, they may for that purpose submit to the Secretary of State a scheme (hereinafter referred to as an “amalgamation scheme”) and the Secretary of State may by order approve any scheme so submitted to him. [959]

(2) Subject to the provisions of this Act, an amalgamation scheme shall make provision with respect to the following matters, that is to say—

- (a) the establishment of a combined force for the combined area, the transfer to that force of members of the constituent forces, and the appointment as first chief constable of the combined force of such person as may be specified in the scheme;
- (b) the maintenance of the combined force by a combined police authority constituted in accordance with the provisions of the scheme, and the transfer to that authority of the police functions of the constituent authorities;
- (c) the payment of the expenses of the combined force and of the combined police authority out of a combined police fund constituted in accordance with the provisions of the scheme;

- (d) the payment into the combined police fund, out of the local funds of the constituent areas, of contributions assessed in accordance with the provisions of the scheme in respect of liabilities imposed on that fund by or under the scheme ;
- (e) the transfer to the combined police authority of such property, rights and liabilities of the constituent authorities (being property, rights and liabilities held or incurred for police purposes) as may be determined by or under the scheme, or the use by the combined police authority of any such property ;
- (f) the appointment of officers of the combined police authority (including a clerk of that authority and a treasurer of the combined police fund) and the transfer to the combined police authority of such officers of the constituent authorities as may be determined by or under the scheme ;
- (g) the delegation to any constituent authority of any functions of the combined police authority under section five of the Police, Factories, etc. (Miscellaneous Provisions) Act, 1916, or under the House to House Collections Act, 1939,

and may provide for any other matters incidental to or consequential on the provisions of the scheme. [960]

(3) The provisions of the Second Schedule to this Act shall have effect for the purpose of adapting the enactments relating to police in their application to the combined area constituted by an amalgamation scheme, and to the combined force and combined police authority for that area ; and the constituent areas combined by such a scheme shall cease for all purposes to be separate police areas. [961]

(4) In relation to a borough comprised in a county to which an amalgamation scheme applies, the foregoing provisions of this Act shall have effect as if for references therein to the police area of the county, the county police force and the council of the county there were substituted respectively references to the combined area constituted by the scheme, the combined force and the combined police authority, and as if in subsection (3) of section one of this Act the words " the standing joint committee acting with the concurrence of " were omitted. [962]

(5) In this Act the expression " county scheme " means—

- (a) an amalgamation scheme which relates to counties only ; and
- (b) an amalgamation scheme which relates to one or more counties and to one or more county boroughs if, on the date on which the scheme comes into operation, the population or aggregate population of the county or counties, as estimated by the Registrar General, exceeds the population or aggregate population of the county borough or county boroughs, as so estimated ;

and the expression " borough scheme " means an amalgamation scheme not being a county scheme. [963]

*Sub-s. (1).*—The following amalgamation schemes have been approved under this subsection up to the time of going to press : Southampton and the Isle of Wight ( S. R. & O., 1947, No. 567 ) ; City and Liberty of Peterborough ( S. R. & O., 1947, No. 568 ) ; Cornwall and the Isles of Scilly ( S. R. & O., 1947, No. 579 ) and Kent and Canterbury ( S. R. & O., 1947, No. 580 ).

*Sub-s. (2) (g).*—S. 5 of the Police, Factories, etc. (Miscellaneous Provisions) Act, 1916 (12 Halsbury's Statutes 865) provides for the regulation of street collections by a police authority. Under s. 7 (2) of the House to House Collections Act, 1939 (32 Halsbury's Statutes 114), a chief officer of police has power to delegate the authority conferred on him by s. 1 (4) of that

Act to issue certificates of exception in respect to local charities, to an inspector or officer of higher rank. The Home Secretary stated in the House of Commons on March 13, 1946, that "it is proposed to advise chief constables of county and combined forces that in the case of amalgamation schemes where power is delegated under the scheme to constituent authorities in those cases where non-county boroughs retain their functions under these Acts and under [para. 4 of] the Third Schedule, they shall delegate their functions under s. 1 (4) to the police officer who is in charge of the borough or division in which the borough is situated." (420 H. of C. Official Report 1180.)

*Sub-s. (4).*—This subsection applies to a borough which subsequently becomes a non-county borough as a result of an order made by the Boundary Commissioners, where the county to which it belongs has joined in an amalgamation under this section. This subsection provides that in such a case the police powers which the new non-county borough loses under s. 1 shall be merged in those of the combined force constituted by the amalgamation.

*Transitory provisions.*—S. 9 makes provision for the adjustment of rights and liabilities between the parties, on transfer, and for arbitration thereon in default of agreement.

**4. Power of Secretary of State to make amalgamation schemes.**—(1) Subject to the provisions of this section, if it appears to the Secretary of State that it is expedient in the interests of efficiency that an amalgamation scheme should be made for any such police areas as aforesaid, and no scheme satisfactory to him has been submitted to him by the police authorities for those areas under the last foregoing section, the Secretary of State may for that purpose by order make such scheme as he considers expedient, and the provisions of the last foregoing section shall apply in relation to any such scheme as they apply in relation to schemes made under that section :

Provided that where the population of a county or county borough, as estimated by the Registrar General, is one hundred thousand or upwards, then except with the consent of the council of the county or borough, no scheme shall be made by the Secretary of State under this section for the amalgamation of the county or borough with any police area or areas of which the population or aggregate population, as so estimated, exceeds that of the county or borough. [964]

(2) Where the Secretary of State proposes to make a scheme under this section, he shall give to the police authorities concerned notice of the general nature of the proposed scheme ; and unless those authorities give notice to the Secretary of State that they assent thereto, the Secretary of State shall cause a local inquiry to be held by a person appointed by him (not being an officer of police or of any government department), and the provisions of subsections (2) and (3) of section two hundred and ninety of the Local Government Act, 1933, shall apply to any inquiry so held as they apply to inquiries held under that section. [965]

(3) The Secretary of State shall lay before each House of Parliament a draft of any scheme proposed to be made by him under this section, and, where a local inquiry has been held under this section with respect thereto, shall lay together with the draft a copy of the report of the person by whom the inquiry was held ; and if either House within the period of forty days beginning with the day on which the draft scheme is laid before it resolves that the scheme be not made, no further proceedings shall be taken thereon, but without prejudice to the laying before Parliament of a new draft scheme.

In reckoning any such period of forty days, no account shall be taken of any time during which Parliament is dissolved or prorogued, or during which both Houses are adjourned for more than four days. [966]

*Effect of section.*—See Preliminary Note, *ante*. Note the proviso to sub-s. (1), which is intended to prevent the formation of either a large regional or a national force without the consent of the major police authorities concerned (see H. of C. Official Report, S.C.B., January 31, 1946, col. 87).

*Local Government Act, 1933, s. 290 (2), (3).*—26 Halsbury's Statutes 459.

*A person appointed, etc.*—The Home Secretary stated that the person to hold the inquiry would be selected from a panel of suitable persons to be set up after the passing of the Act (see 420 H. of C. Official Report 1217).

*Transitory provisions.*—See note to s. 3, *ante*.

*Definitions.*—For construction of "amalgamation scheme," see s. 3 (1), *ante* ; for "police authority," see s. 19, *post*.

**5. Constitution and powers of combined police authorities.**—(1) The combined police authority constituted by an amalgamation scheme shall consist of such representatives of each of the constituent areas as may be prescribed by the scheme, and every such authority shall be a body corporate by such name as may be prescribed by the scheme, with a common seal and with power to hold land without licence in mortmain. [967]

(2) Provision may be made by an amalgamation scheme for applying, in relation to the constitution and proceedings of the combined police authority and in relation to the officers of that authority, any of the provisions of Parts II to IV of the Local Government Act, 1933, subject to such modifications as may be prescribed by the scheme. [968]

(3) A combined police authority shall have the same powers as the council of a county or county borough with respect to the acquisition of land for police purposes, including the powers in that behalf conferred on such councils by this Act, and to the appropriation and disposal of such land, and the provisions of this Act and of the Local Government Act, 1933, [and the Acquisition of Land (Authorisation Procedure) Act, 1946,] with respect to the acquisition, appropriation and disposal of land by such councils shall have effect accordingly as if references therein to the council of a county or county borough included references to a combined police authority. [969]

(4) For the purpose of the discharge of their functions under the scheme, the combined police authority constituted by a county scheme shall have the powers of a county council, and the combined police authority constituted by a borough scheme shall have the powers of a county borough council, in relation to the borrowing of money for police purposes, and the provisions of Part IX of the Local Government Act, 1933, shall have effect accordingly, subject to such adaptations and modifications as may be prescribed by the scheme. [970]

(5) The accounts of every combined police authority shall be subject to audit by a district auditor under Part X of the Local Government Act, 1933. [971]

(6) A combined police authority may, if so authorised by the scheme, make arrangements with any constituent authority for the use by the combined police authority of the services of officers and servants of the constituent authority and the making of contracts and payments on behalf of the combined police authority by the constituent authority. [972]

(7) The Local Government Superannuation Act, 1937, shall have effect as if a combined police authority were included among the local authorities specified in Part I of the First Schedule to that Act; and in relation to contributory employees of a combined police authority the appropriate superannuation fund for the purposes of that Act shall be such fund as may be determined by or under the scheme. [973]

*Effect of section.*—See Preliminary Note, *ante*.

*Sub-s. (2).*—This subsection was added by amendment in Committee in the House of Lords to enable an amalgamation scheme to include the provisions of Parts II to IV of the Local Government Act, 1933 (26 Halsbury's Statutes 333) relating to the imposition of penalties.

*Amalgamation scheme.*—See ss. 3 and 4, *ante*.

*Local Government Act, 1933.*—26 Halsbury's Statutes 295. For Parts II to IV, Part VII (relating to the acquisition, etc., of land), Part IX and Part X, see *ibid.* 333–373, 391, 412, 424.

*Acquisition of Land.*—The words in square brackets in sub-s. (3) were added by s. 6 of, and Sched. IV to, the Acquisition of Land (Authorisation Procedure) Act, 1946, pp. 232, 252, *ante*, which introduced a uniform procedure for authorising the compulsory acquisition of land in certain cases. The effect of this amendment is to apply the uniform procedure to compulsory acquisitions under the present Act. For the powers of acquisition of land conferred by this Act, see s. 15, *post*.

*Local Government Superannuation Act, 1937.*—30 Halsbury's Statutes 385. For Part I of Sched. I thereto, see *ibid.* 419.

*Definitions.*—For definitions of "combined police force" and "constituent authority," see s. 19, *post*; for "amalgamation scheme," see s. 3 (1), *ante*; and for "county scheme" and "borough scheme," see s. 3 (5), *ante*.

**6. Amendment and revocation of amalgamation schemes.**—(1) An amalgamation scheme made under section three or section four of this Act may be amended or revoked by a subsequent scheme made under either of those sections and the foregoing provisions of this Act, including the provisions of the Second Schedule to this Act, shall, so far as applicable, have effect in relation to any such amending or revoking scheme subject to any necessary modifications and to the following provisions of this section. [974]

(2) Without prejudice to the generality of the provisions of subsection (1) of this section, provision may be made by any such subsequent scheme—

- (a) for the division of the combined area into any two or more police areas, being either counties or county boroughs or combined areas constituted by the subsequent scheme, or for the inclusion in the combined area of any other police area;
- (b) for the dissolution and winding up of any combined police authority constituted under the original scheme, and of any combined police fund established thereunder, or for the reconstitution of any such authority or fund;
- (c) for the transfer or retransfer to such police forces as may be determined by the subsequent scheme of members of the combined force;
- (d) for the transfer or retransfer to such authorities as may be determined by the subsequent scheme of any officers, property, rights or liabilities of the combined police authority;
- (e) for any other matters incidental to or consequential on the provisions of the subsequent scheme. [975]

(3) The authority by whom a scheme for the amendment or revocation of an amalgamation scheme may be submitted to the Secretary of State under subsection (1) of section three of this Act shall be the combined police authority constituted by the original scheme, or, where the scheme amends or revokes more than one amalgamation scheme, the combined police authorities constituted by those schemes; and references to police authorities in subsection (1) of section four of this Act shall be construed accordingly:

Provided that where the scheme provides for the inclusion in a combined area of any other police area (not being an area which, immediately before the date of transfer, was subject to an amalgamation scheme) the police authority for that other area shall be included among the authorities aforesaid. [976]

(4) The authorities to whom, under subsection (2) of section four of this Act, notice must be given by the Secretary of State of a scheme proposed to be made by him for the amendment or revocation of an amalgamation scheme, shall be the authority by whom a scheme for that purpose might have been submitted by virtue of the last foregoing subsection, and the standing joint committee of any county, and the council of any borough, comprised in the combined area constituted by the original scheme or schemes. [977]

(5) Where, in consequence of any alteration of local government areas, the combined area constituted by an amalgamation scheme becomes co-extensive with a single administrative county or county borough, the Secretary of State may give such directions as he considers expedient for amending

the scheme in consequence of the alteration, but subject to any such directions the scheme shall remain in force and may be amended or revoked under this section. [978]

*Effect of section.*—This section makes provision for the revocation or amendment of amalgamation schemes, both voluntary and compulsory, by subsequent schemes made under ss. 3 and 4, *ante*, respectively. A scheme for amending or revoking a voluntary scheme is to be submitted by the combined authority constituted by the original scheme, or, where it is proposed to amend or revoke more than one amalgamation scheme, the combined authorities constituted by those schemes. Also, where the scheme provides for the inclusion in a combined area of a police area not previously subject to an amalgamation scheme, the police authority for that area is to be included among the authorities to submit a scheme. If the Home Secretary proposes to amend a compulsory scheme he must give notice not only to the combined authority or authorities, but also to the constituent authorities.

*Definitions.*—For definitions of "combined area," "combined force," "combined police authority," "combined police fund," "officer," "police authority" and "standing joint committee," see s. 19, *post*.

**7. Power to make schemes in advance of alterations to local government areas.**—If at any time after the commencement of this Act an order is made under the Local Government (Boundary Commission) Act, 1945, constituting any area as a new county or county borough as from a date specified in the order, an amalgamation scheme may be made under this Act with respect to that area so as to come into force at that date, and in relation to such a scheme the provisions of this Act shall apply subject to any necessary modifications, and as if for references to the police authority there were substituted references—

- (a) in the case of a new county, to the police authority for any county or combined area of which the whole or any part is to be comprised in the new county ;
- (b) in the case of a new county borough, to the council of any borough of which the whole or any part is to be comprised in the county borough, and, where the whole or any part of a district not being a borough is to be so comprised, to the police authority for the county or combined area in which that district is situated. [979]

*Effect of section.*—In the absence of specific provision to the contrary, a newly constituted county borough becomes a police authority under the Municipal Corporations Act, 1882, Part IX (10 Halsbury's Statutes 636). This section enables an amalgamation scheme in respect of such a borough to be made to come into force on the same day as it achieves its new status, by providing that the borough council be substituted for the police authority for the purposes of such schemes, as soon as an order has been made by the Boundary Commissioners. Analogous provisions are applicable in the case of a newly created county.

*Local Government (Boundary Commission) Act, 1945.*—38 Halsbury's Statutes 314.

*Definitions.*—For definitions of "amalgamation scheme," "combined area" and "police authority," see s. 19, *post*.

**8. Adaptation of local Acts relating to police.**—(1) Where, by any local Act in force with respect to an area which ceases to be a separate police area by virtue of this Act or of a scheme thereunder, provision is made for conferring or imposing special powers or duties on the police, the Secretary of State may by order adapt the local Act so far as appears to him to be necessary or expedient for the purpose of the exercise or performance of those powers or duties by the police of the county, or of the combined area, as the case may be :

Provided that nothing in this section or in any order made in accordance therewith shall be construed as extending the area within which or the matters in relation to which any such powers or duties as aforesaid are authorised or required by the local Act to be exercised or performed. [980]

(2) Any order made by the Secretary of State under this section shall be laid before Parliament immediately after it is made ; and if either House of Parliament, within the period of forty days beginning with the day on which any such order as aforesaid is laid before it, resolves that the order be



annulled, it shall thereupon become void, but without prejudice to the validity of anything previously done thereunder or to the making of a new order.

In reckoning any such period of forty days as aforesaid, no account shall be taken of any time during which Parliament is dissolved or prorogued, or during which both Houses are adjourned for more than four days. [981]

(3) The power of the Secretary of State to make orders under this section shall include power to revoke or amend any such order by a subsequent order. [982]

*Effect of section.*—This section empowers the Home Secretary by order to adapt any local Acts conferring or imposing special powers or duties on the police of any areas which cease to be separate areas either by abolition or amalgamation, so far as is necessary for the exercise or performance of their powers or duties by the police of the county or combined area. The section does not, however, permit the extension of the area within which, or the matters in relation to which, such powers or duties are required to be exercised or performed. This general power of adaptation is made necessary because of the diversity of the working and provisions of the various local Acts. Compare with this section the Local Government Act, 1933, s. 148 (1) (e) (26 Halsbury's Statutes 386), which makes similar provision for the adaptation of local Acts.

*Sub-s. (1).*—Under this subsection the Secretary of State has made the Adaptation of Enactments (Police) (Scarborough) Order, 1947 (S. R. & O., 1947, No. 581).

**9. Transitory provisions, etc.**—(1) The transitory provisions set out in the Third Schedule to this Act shall have effect in relation to any alteration of police areas effected by virtue of section one of this Act or by virtue of a scheme under this Act. [983]

(2) Where, immediately before the date of transfer, proceedings were pending by or against any authority with respect to any property, rights or liabilities which are transferred by virtue of this Act or of any scheme thereunder, those proceedings may be carried on thereafter with the substitution, for that authority, of the authority to whom the property, rights or liabilities are so transferred. [984]

(3) Where any officers, property, rights or liabilities have been transferred by virtue of this Act or of any scheme thereunder from one authority to another, or will be so transferred on the date of transfer, those authorities may by agreement provide for the making of such adjustments in relation to their respective property, rights and liabilities as appear to them to be desirable having regard to the transfer, and any such agreement may, in particular, provide for the making of payments by either party thereto. [985]

(4) If any question arises—

- (a) whether any persons, property, rights or liabilities have been or will on the date of transfer be transferred from one authority to another by virtue of this Act or of any scheme thereunder; or
- (b) whether any such adjustment as is mentioned in the last foregoing subsection ought to be made between any authorities,

that question shall, in default of agreement between the authorities concerned (including, in the case of any such question as is mentioned in paragraph (a) of this subsection which relates to a county, the standing joint committee), be referred to the arbitration of a single arbitrator agreed upon between the parties, or in default of agreement appointed by the Secretary of State, and the award of the arbitrator with respect to any such question as is mentioned in paragraph (b) of this subsection may provide for any matter for which provision might have been made by an agreement under the last foregoing subsection. [986]

*Effect of section.*—See Preliminary Note, ante.

"Or will be so transferred on the date of transfer."—An agreement for adjustment may be made between the authorities before the actual date of transfer. It was pointed out by the Under-Secretary of State for the Home Department during the course of the Committee debate

that this provision may be important in respect of property, as under it, for instance, a county which is taking over a non-county borough force and does not require the borough police station can arrange in advance of the date of transfer for the station to be taken over by the borough for other purposes on that date (see H. of C. Official Report, S.C.B., February 7, 1946, col. 154).

*Officers.*—This term includes “servants” (see s. 19, *post*). As used in this subsection it is intended to refer to the clerical or other staff of the council, not to police officers (see Home Secretary’s statement in Standing Committee (H. of C. Official Report, S.C.B., January 29, 1946, col. 44)).

*Definition.*—For definition of “standing joint committee,” see s. 19, *post*.

**10. Compensation of officers prejudicially affected.**—(1) If in consequence of the provisions of this Act, or of any scheme made thereunder or in consequence of anything done under this Act or any such scheme, any person who, immediately before the date of transfer, was an officer employed by the council of a county or borough or by a combined police authority suffers direct pecuniary loss by reason of the determination of his appointment or the diminution of his emoluments, he shall, unless provision for his compensation for that loss is made by or under any other enactment for the time being in force, be entitled to receive compensation under this section from the appropriate authority. [987]

(2) The provisions of subsections (2) and (3) of section one hundred and fifty of the Local Government Act, 1933, shall have effect in relation to any claim for compensation under this section as if for any reference therein to the date on which a scheme or order made by the Minister of Health under Part VI of that Act comes into operation there were substituted a reference to the date of transfer and as if for any other reference therein to such a scheme or order there were substituted a reference to this Act or a scheme made thereunder; and for the purpose of those subsections in their application to any such claim the expression “existing officer” shall mean any person who, immediately before the said date, was an officer employed by any such council or authority as aforesaid. [988]

(3) For the purposes of the determination and payment of compensation under this section the provisions of the Fourth Schedule to the Local Government Act, 1933, shall be incorporated with this section, subject to the following modifications, that is to say:—

(a) references to a local authority shall be construed as including references to any authority, not being a local authority, by whom compensation is payable under this section;

(b) references to a scheme or order shall be construed as references to this Act or to a scheme made under this Act. [989]

(4) In this section the expression “the appropriate authority” means—

(a) in relation to a pecuniary loss incurred in consequence of a borough becoming part of the police area of a county under section one of this Act, the council of that county;

(b) in relation to a pecuniary loss incurred in consequence of a borough becoming part of a combined area under section one and subsection (4) of section three of this Act, such authority as may be determined by or under the scheme constituting that combined area; and

(c) in relation to a pecuniary loss incurred in consequence of the coming into operation of a scheme under this Act, such authority as may be determined by or under that scheme. [990]

*Effect of section.*—This section provides compensation for any person suffering pecuniary loss as a result of anything done under the Act, whether he be employed by the transferor or transferee authority; and is intended to cover cases of such indirect loss as might be suffered, for example, by a town clerk owing to cessation of fees for prosecutions or by an officer in the Borough Treasurer’s department becoming redundant owing to a transfer of functions (see statement by the Home Secretary reported in H. of C. Official Report, S.C.B., February 7, 1946, col. 155).

*Retention of members of borough forces within the borough.*—In the course of the debate

on the Bill in Standing Committee the Home Secretary stated that it was his wish that on the amalgamation of a county borough force with that of the county the members of the borough force should not, without their consent, be moved outside the confines of that borough while they held the same rank, and that Regulations to be made would include provision to that effect (see H. of C. Official Report, S.C.B., February 7, 1946, col. 156). For the Regulations, see pp. 421 and 423, *post*.

*Officer*.—This term includes "servant" (see s. 19, *post*). As used in this section it is intended to refer to the clerical or other staff of the council, not to police officers (see Home Secretary's statement in Standing Committee (H. of C. Official Report, S.C.B., January 29, 1946, col. 44)).

*Local Government Act, 1933*, s. 150 (2), (3).—26 Halsbury's Statutes 388; for Part VI and Sched. IV, see *ibid.* 374–391, 504–507.

*Determination and payment of compensation*.—See also the Compensation of Displaced Officers (War Service) Act, 1945 (38 Halsbury's Statutes 299).

*Definitions*.—For definitions of "combined area" and "combined police authority," see s. 19, *post*.

**11. Chief constables.**—(1) The person appointed by an amalgamation scheme to be the first chief constable of the combined force shall be a member of a police force, and shall be the chief constable of one of the constituent forces unless the Secretary of State is satisfied, having regard to any exceptional circumstances, that no such chief constable is suitable for the appointment. [991]

(2) The chief constable of a non-county borough force shall not be transferred by virtue of this Act to the county force or to the combined force constituted by a county scheme made before the appointed day unless before the date of transfer he agrees to join that force in some capacity other than that of a chief constable; and the chief constable of a constituent force shall not be transferred to the combined force constituted by a scheme under this Act unless he is appointed as the first chief constable of that force or unless before the date of transfer he agrees to join that force in some other capacity. [992]

(3) A chief constable who is not transferred as aforesaid shall be deemed to have retired from his police force immediately before the date of transfer, and the following provisions of this subsection shall apply to him, that is to say:—

- (a) during the period of three months beginning with the date aforesaid (or, if within those three months he joins the county force or the combined force, as the case may be, during the period beginning with the date aforesaid and ending with the date next before the date on which he joins that force) he shall be entitled to be paid out of the county fund, or out of the combined police fund, as the case may be, a salary and emoluments at the same rate as the salary and emoluments which he would have been entitled to receive had he continued to be the chief constable of his police force;
- (b) if during the said three months he joins the county force or the combined force, as the case may be, he shall be deemed for the purposes of the Police Pensions Act, 1921, to have served in that force during the period for which he is in receipt of a salary under paragraph (a) of this subsection;
- (c) if during the said three months he does not join the county force or the combined force, as the case may be, there shall, at the expiration of the said three months, be payable out of the county fund, or out of the combined police fund, as the case may be, to him or, in the event of his death, to his wife, children or other dependent relatives, such pension, gratuity or allowance, and on such terms, as may be prescribed by regulations made by the Secretary of State:

Provided that the amount of any pension, gratuity or allowance payable under paragraph (c) of this subsection shall, in a case where the former chief constable would have been entitled, with the consent of the police

authority, to retire at the expiration of the said three months without a medical certificate and receive an ordinary pension for life, be not less than it would have been if he had so retired, and the amount of any pension payable under that paragraph to the widow of a former chief constable shall not be reduced, in the event of his death, by reference to the number of complete years (if any) during which a pension was payable to him thereunder before he attained the age of sixty-five. [993]

(4) Where a chief constable, in pursuance of an agreement in that behalf made by him before the date of transfer, is transferred to the county force, or to the combined force constituted by a scheme under this Act, in any capacity other than that of chief constable or assistant chief constable, or joins that force in any such capacity within the period of three months beginning with the date of transfer, then, subject to any agreement to the contrary made between him and the police authority of the county or the combined area, as the case may be, he shall, while he serves in that force, be treated for the purposes of section one of the Police Pensions Act, 1921 (which prescribes the age of compulsory retirement) and of subsection (3) of section two of that Act (which restricts the right of chief constables to retire) as if he were a chief constable. [994]

(5) The provisions of the Police Pensions Act, 1921, shall apply, subject to such exceptions and modifications as may be prescribed by regulations made by the Secretary of State, to any pension, gratuity or allowance payable under paragraph (c) of subsection (3) of this section. [995]

*Effect of section.*—This section provides that chief constables of non-county boroughs, and chief constables of constituent forces who do not become chief constables of the county or combined force respectively, may elect within three months to join the county force or the combined force in a subordinate capacity. If they so elect they will, subject to any agreement to the contrary, be treated for the purposes of s. 1 of the Police Pensions Act, 1921 (12 Halsbury's Statutes 873), which fixes a chief constable's ordinary retiring age at sixty-five, as being chief constables during their service with their new police authority whatever rank they may actually hold. Thus a chief constable may choose whether to serve for the longer period assured to a chief constable, i.e. to sixty-five, or to retire on completing his service for an ordinary pension under s. 2 (i) (a) of the 1921 Act (*ibid.* 874), i.e. after having served twenty-five years.

Chief constables who do not elect to join the county or combined force receive their salary and emoluments for three months and thereafter a pension, gratuity or allowance on such terms as may be prescribed by regulation (see the Displaced Chief Constables (Compensation) Regulations, 1946; .S. R. & O., 1946, No. 1988; *post*). It is further provided that the reductions from a police widow's pension made in respect of the years before the chief constable attained sixty-five during which he received a pension (see Part II of Sched. I to the Act of 1921; *ibid.* 891), shall not be made in respect of a pension payable under this section.

*Police Pensions Act, 1921.*—12 Halsbury's Statutes 873. For ss. 1, 2 (3), see *ibid.* 873, 874. *Definitions.*—For definitions of "amalgamation scheme," "combined force," "combined police fund," "constituent force" and "police authority," see s. 19, *post*; for "county scheme," see s. 3 (5), *ante*.

## 12. Consolidation agreements under County Police Act, 1840, etc.—

(1) Sections fourteen and fifteen of the County Police Act, 1840, and sections five and twenty of the County and Borough Police Act, 1856 (which relate to the consolidation of borough police forces with county police forces by agreement or by Order in Council) shall cease to have effect:

Provided that any agreement made under the said section fourteen (in this section referred to as a "consolidation agreement") which is in force at the commencement of this Act shall continue in force by virtue of this Act unless and until it ceases to have effect or is determined in accordance with the subsequent provisions of this section. [996]

(2) Where, immediately before the appointed day, the police force of a non-county borough is subject to a consolidation agreement, or where a county borough the police of which is subject to such an agreement ceases after the appointed day to be a county borough, the agreement shall cease to have effect on the date of transfer, and the provisions of this Act with respect to the abolition of non-county borough police forces shall, so far as

applicable, apply in relation to the borough as if it had previously been a separate police area, and references in those provisions to the police functions of the borough and to the exercise of such functions by the council or watch committee of the borough shall be construed accordingly. [997]

(3) An amalgamation scheme may be made under this Act for the amalgamation for police purposes of the areas of a county borough and a county, notwithstanding that those areas are subject to a consolidation agreement, as if they were separate police areas, and any such scheme may determine the consolidation agreement as from such date as may be specified in the scheme, and may make provision for any purpose for which provision may be made by a scheme revoking an amalgamation scheme. [998]

(4) Without prejudice to the provisions of the last foregoing subsection, the parties to a consolidation agreement may, by an agreement approved by the Secretary of State, determine the consolidation agreement as from such date as may be specified in the agreement under this subsection, and any such agreement may make provision for any purpose for which provision may be made by a scheme revoking an amalgamation scheme under this Act. [999]

(5) Subject to the foregoing provisions of this section, a borough to which a consolidation agreement applies shall be deemed for the purposes of a scheme under this Act to form part of the county and the consolidated force shall be deemed to be the county force :

Provided that the borough shall be treated as a separate constituent area for the purposes of paragraph (d) of subsection (2) of section three, and of subsection (1) of section five of this Act, and the council of the borough shall be treated as a separate constituent authority for the purposes of paragraphs (e) and (f) of the said subsection (2) and of subsection (5) of the said section five. [1000]

(6) In relation to the determination of a consolidation agreement under this section the provisions of the Third Schedule to this Act shall have effect as if references therein to a transferred area included references to the county police area as well as to the borough police area, and as if references therein to an amalgamation scheme and to a scheme under this Act revoking an amalgamation scheme included respectively references to a consolidation agreement and to a scheme or agreement under this section ; and provision may be made—

- (a) where the consolidation agreement is determined by an amalgamation scheme or by an agreement under this section, by that scheme or agreement ;
- (b) in any other case, by an order made by the Secretary of State after consultation with the authorities concerned or by an agreement made between those authorities with the approval of the Secretary of State,

for the making of such adjustments in relation to the respective property, rights and liabilities of the parties to the agreement as may be desirable in consequence of the determination thereof. [1001]

*Effect of section.*—S. 14 of the County Police Act, 1840 (12 Halsbury's Statutes 790) as extended by s. 5 of the County and Borough Police Act, 1856 (*ibid.* 813) provided for the consolidation of borough police forces with the forces of the county by agreement and, in default of agreement, by Order in Council. The present section repeals these sections (together with the consequential s. 15 of the Act of 1840 and s. 20 of the Act of 1856 (*ibid.* 791, 816) on the coming into force of the wider provisions for the amalgamation of police forces contained in ss. 3 and 4, *ante*, and makes provision for the "winding up" of "consolidation agreements," made under the above-mentioned Acts. These agreements cease automatically when they relate to non-county borough forces which are abolished under s. 1, *ante* (sub-s. (2) ), and may be determined by agreement under an amalgamation scheme (sub-s. (3) ). They may also be determined by an agreement approved by the Home Secretary (sub-s. (4) ), a provision

which protects the position of a county borough subject to a consolidation agreement desiring at some future date to establish its own police force.

*County Police Act, 1840, ss. 14, 15.—12 Halsbury's Statutes 790, 791.*

*County and Borough Police Act, 1856, ss. 5, 20.—Ibid. 813, 816.*

*Definitions.*—For definitions of "appointed day," "amalgamation scheme," "constituent area" and "constituent authority," see s. 19, *post*.

**13. Orders under Defence (Amalgamation of Police Forces) Regulations, 1942.**—(1) The Defence (Amalgamation of Police Forces) Regulations, 1942, made by His Majesty in Council under the Emergency Powers (Defence) Acts, 1939 and 1940, shall cease to have effect :

Provided that any order for the amalgamation of police forces made by the Secretary of State under the said Regulations (hereinafter referred to as an "amalgamation order") shall, if in force at the commencement of this Act, continue in force by virtue of this Act until the appointed day unless it is previously revoked in accordance with the subsequent provisions of this section. [1002]

(2) An amalgamation scheme may be made under this Act with respect to any county or county borough which is subject to an amalgamation order as if it were a separate police area, and any such scheme may revoke the amalgamation order as from such date as may be specified in the scheme, and may make provision for any purpose for which provision may be made by a scheme revoking an amalgamation scheme under this Act. [1003]

(3) Without prejudice to the provisions of the last foregoing subsection, the Secretary of State may, by order made at any time before the appointed day, revoke or amend any amalgamation order, and any order under this subsection may make provision for any purpose for which provision may be made by a scheme revoking or amending an amalgamation scheme under this Act, and, in the case of an amending order, may confer on the joint authority constituted by the amalgamation order the powers of acquisition of land conferred on combined police authorities by subsection (3) of section five of this Act. [1004]

(4) In relation to the revocation or determination of an amalgamation order under this section, the provisions of the Third Schedule to this Act shall have effect as if references therein to a transferred area included references to the joint area constituted by that order as well as to the areas previously comprised in that joint area, and as if references therein to an amalgamation scheme and to a scheme under this Act revoking an amalgamation scheme included respectively references to an amalgamation order and to an order under this section; and the Secretary of State may by order provide for the making of such adjustments in relation to the respective property, rights and liabilities of the councils or police authorities for the areas previously subject to the amalgamation order as appear to him after consultation with those councils or authorities to be desirable in consequence of the revocation or determination of that order. [1005]

(5) If with the approval of the Secretary of State an agreement is made between the authorities concerned with respect to the transfer of any property, rights or liabilities of the joint authority constituted by an amalgamation order which is revoked or ceases to have effect under this section, or with respect to the making of any such adjustments as are mentioned in the last foregoing subsection, the provisions of that agreement shall have effect as if contained in an order made by the Secretary of State under this section. [1006]

(6) Where, on the date on which an amalgamation order is revoked or ceases to have effect under this section, any area previously comprised in the joint area constituted by that order becomes comprised, by virtue of this Act or of a scheme made thereunder, in the county police area or in a com-



bined area, as the case may be, then if any person, who immediately before the date on which the amalgamation order came into force was the chief constable of a force amalgamated by that order, is serving immediately before the date on which that order is revoked or ceases to have effect as a member of the joint force constituted by that order in any capacity other than that of chief constable, the provisions of this Act with respect to chief constables shall have effect in relation to that person as if he were the chief constable of that area. [1007]

(7) Where, immediately before the date of the transfer, a non-county borough was comprised in the joint area constituted by an amalgamation order, the provisions of this Act with respect to the abolition of non-county borough police forces shall, so far as applicable, apply as if the borough had previously been a separate police area, and references in those provisions to the police functions of the borough and to the exercise of such functions by the council or watch committee of the borough shall be construed accordingly. [1008]

*Effect of section.*—This section revokes the Defence (Amalgamation of Police Forces) Regulations, 1942 (S. R. & O., 1942, No. 1443) made under the Emergency Powers (Defence) Acts, 1939 and 1940 (32 Halsbury's Statutes 930 ; 33 Halsbury's Statutes 541), and provides for the revocation of amalgamation orders made thereunder. Unless revoked such orders are continued in force until April 1, 1947.

*Appointed day.*—April 1, 1947 (see s. 19, *post*).

*Sub-s. (2).*—For purposes for which provision may be made by a scheme revoking an amalgamation scheme, see s. 6, *ante*.

*Sub-s. (3).*—At the time of going to press, the following orders have been made under this subsection : S. R. & O., 1946, No. 851 (Sussex) (p. 420, *post*) ; S. R. & O., 1947, No. 539 (Surrey) ; S. R. & O., 1947, No. 540 (Wilts) ; S. R. & O., 1947, No. 554 (Cornwall) ; S. R. & O., 1947, No. 555 (Kent) and S. R. & O., 1947, No. 566 (Sussex).

*Sub-s. (7).*—For provisions of the Act with respect to the abolition of non-county borough police forces, see s. 1, *ante*.

**14. Provisions as to constables serving in the forces or on overseas police service.**—(1) In relation to a person to whom section one of the Police and Firemen (War Service) Act, 1939, applies at the date of transfer, being a person who had ceased to serve as a constable in a transferred force in order to serve in His Majesty's forces, the provisions of that Act shall have effect in relation to any period after the date of transfer as if for any reference therein to the police force in which he was serving immediately before he ceased to serve as a constable there were substituted a reference to the new force, and references in that Act to the appropriate authority shall be construed accordingly. [1009]

(2) In relation to a person who, before the date of transfer, has engaged in accordance with the provisions of section two of the Police (Overseas Service) Act, 1945, for a period of overseas service, and who, before he so engaged, was either—

(a) a member of a transferred force ; or

(b) a person to whom section one of the Police and Firemen (War Service) Act, 1939, applied, having ceased to serve as a constable in a transferred force in order to serve in His Majesty's forces,

the provisions of the said section two shall have effect, in relation to any period after the date of transfer, as if for any reference therein to his home police force there were substituted a reference to the new force, and references in that section to the appropriate authority shall be construed accordingly. [1010]

(3) Nothing in the last foregoing subsection shall be construed as entitling a person who has engaged for a period of overseas service to revert to the new force as the chief constable of that force ; but where any person who, immediately before he so engaged, was the chief constable of a transferred



force would but for this provision be so entitled to revert to the new force, then—

- (a) if he does not join that force in some capacity other than that of chief constable at the end of his period of overseas service in pursuance of an agreement in that behalf made by him during that period, subsection (3) of section eleven of this Act shall apply to him as if for any reference therein to the date of transfer there were substituted a reference to the end of that period; and
- (b) if he joins that force at the end of his period of overseas service or within the period of three months thereafter, subsection (4) of that section shall apply to him as it applies to a chief constable who is transferred to or joins a county or combined force as provided in that subsection. [1011]

(4) Where the transferred force is a joint force constituted by an amalgamation order, and any person who, immediately before that order came into operation, was the chief constable of one of the constituent forces comprised in that force, after serving in the joint force in some capacity other than that of chief constable, has engaged in accordance with section two of the Police (Overseas Service) Act, 1945, for a period of overseas service which has not expired at the date of transfer, then if at the end of that period he becomes entitled to revert to the new force by virtue of that Act as amended by this section, paragraphs (a) and (b) of the last foregoing subsection shall apply to him as they apply to a person who, before he so engaged, was the chief constable of a transferred force. [1012]

(5) In this section the expressions "transferred force" and "new force" have respectively the same meanings as they have for the purpose of the Third Schedule to this Act, and the expression "overseas service" has the same meaning as it has for the purposes of the Police (Overseas Service) Act, 1945. [1013]

*Effect of section.*—This section continues the protection given by the Police and Firemen (War Service) Act, 1939 (32 Halsbury's Statutes 1149), to constables on war service in respect of their civil pay and superannuation rights when the police force to which they belong is merged or amalgamated under the provisions of this Act (see ss. 1, 3 and 4, *ante*); it similarly protects the reinstatement and pension rights of police personnel serving abroad under the provisions of the Police (Overseas Service) Act, 1945, s. 2 (38 Halsbury's Statutes 363).

*Police and Firemen (War Service) Act, 1939, s. 1.*—32 Halsbury's Statutes 1150.

*Police (Overseas Service) Act, 1945, s. 2.*—38 Halsbury's Statutes 363.

*Definitions.*—For definitions of "new force" and "transferred force," see sub-s. (5), *supra*; for "date of transfer," see s. 19, *post*.

#### *Amendments of law relating to county, borough and metropolitan police*

**15. Compulsory purchase of land for police purposes by county and county borough councils.**—The council of any county or county borough being a separate police area may be authorised, [*by means of an order made by the council and confirmed*] by the Minister of Health, to purchase compulsorily any land, whether situated within or without the county or borough, which is required for the purpose of any of the functions of the police authority for the county or borough. [1014]

*Powers of a combined police authority.*—S. 5 (3), *ante*, provides that a combined police authority shall have the same powers relating to the acquisition of land for police purposes as the council of a county or county borough.

*Subsequent amendment of section.*—The words in square brackets were repealed by the Acquisition of Land (Authorisation Procedure) Act, 1946, s. 6 and Sched. IV (pp. 232 and 252, *ante*), which provides a uniform procedure for authorising the compulsory acquisition of land by local authorities.

*Police authority.*—For definition, see s. 19, *post*.

**16. Rectification of Metropolitan Police District.**—(1) As from the appointed day, the Metropolitan Police District shall consist of the areas

specified in the Fourth Schedule to this Act, and so much of section four of the Metropolitan Police Act, 1829, as defines that District, section thirty-four of that Act, and section two of the Metropolitan Police Act, 1839, shall cease to have effect. [1015]

(2) This section and the Metropolitan Police Acts, 1829 to 1935, may be cited together as the Metropolitan Police Acts, 1829 to 1946, and this section shall be construed as one with those Acts. [1016]

*Metropolitan Police District.*—The Metropolitan Police District was constituted by the Metropolitan Police Act, 1829, s. 4 and the Schedule (12 Halsbury's Statutes 744, 757) and extended by an Order in Council in 1840 (S. R. & O., Rev. 1940, VIII, Metropolitan and City Police Districts, p. 1) made under s. 2 of the Metropolitan Police Act, 1839 (*ibid.* 767). It had remained unaltered from 1840 until the passing of the present Act which redefines its boundaries as from April 1, 1947, in order to align them with the boundaries of the local authorities.

*Metropolitan Police Act, 1829, ss. 4, 34.*—12 Halsbury's Statutes 744, 756.

*Metropolitan Police Act, 1839, s. 2.*—*Ibid.* 767.

*Appointed day.*—April 1, 1947 (see s. 19, *post*).

### Supplemental

**17. Special provisions as to certain non-county boroughs.**—(1) Where, on the thirtieth day of June, nineteen hundred and thirty-nine, the population of a non-county borough, as estimated by the Registrar General, exceeded one half of the population of the administrative county comprising the borough, as so estimated, the provisions of this Act shall apply to the borough as if it were a county borough, and references in this Act to county boroughs and to non-county boroughs shall be construed accordingly. [1017]

(2) Any scheme made under this Act relating to the borough of Cambridge shall provide for the inclusion among the members of the combined police authority constituted by the scheme of five representatives of the University of Cambridge; and nothing in any such scheme shall affect the provisions of section fifty-one of the Cambridge Award Act, 1856 (which provides for the constitution of the watch committee of the said borough and for the representation thereon of members of the university). [1018]

*Effect of section.*—See Preliminary Note, *ante*. Sub-s. (2) preserves the right conferred by the Cambridge Award Act, 1856, on the University of Cambridge of appointing five members of the Cambridge borough watch committee.

*Cambridge Award Act, 1856.*—19 & 20 Vict. c. xvii.

*Combined police authority.*—For definition, see s. 19, *post*.

**18. Application to Isles of Scilly.**—This Act shall apply to the Isles of Scilly as if they were a county, and for the purposes of such application this Act shall have effect as if for any reference therein to a county council, a standing joint committee or a county fund, there were substituted references respectively to the Council of the Isles of Scilly, the Joint Police Committee for the Isles and the general fund of the Council. [1019]

*Standing joint committee.*—For definition, see s. 19, *post*.

**19. Interpretation.**—(1) In this Act, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

“Amalgamation scheme”, “borough scheme” and “county scheme” have the meanings assigned thereto by section three of this Act;

“Appointed day” means the first day of April, nineteen hundred and forty-seven;

“Combined area” means the combined police area constituted by an amalgamation scheme;

“Combined force” means the police force established by an amalgamation scheme

- “ Combined police authority ” means the authority responsible for the maintenance of a combined force ;
- “ Combined police fund ” means the fund established by an amalgamation scheme for the payment of the expenses of the combined force and the combined police authority ;
- “ Constituent area ” means a police area which is combined by an amalgamation scheme, and includes, in relation to a scheme amending an amalgamation scheme, the combined area constituted by the original scheme ;
- “ Constituent authority ” means the police authority for an area, which is combined by an amalgamation scheme and includes, in the case of a county, the council of the county, and, in the case of a county borough, the council of the borough ;
- “ Constituent force ” means the police force for a constituent area ;
- “ Date of transfer ”, in relation to a borough which ceases to be a separate police area by virtue of section one of this Act, means the appointed day or, in the case of a county borough which ceases to be a county borough after the appointed day, the date on which it ceases to be a county borough ; and in relation to a police area to which a scheme under this Act applies means the date on which that scheme comes into operation ;
- “ Enactment ” includes an order, regulation or other instrument having effect by virtue of an Act ;
- “ Local fund ” in relation to a county, means the county fund, and in relation to a county borough means the general rate fund ;
- “ Officer ” includes a servant ;
- “ Police authority ” means, in relation to a county, the standing joint committee for the county, and in relation to a county borough, the watch committee ;
- “ Standing joint committee ” means the standing joint committee of the quarter sessions of a county and the county council. [1020]

(2) References in this Act to any enactment shall be construed as references to that enactment as amended by any subsequent enactment. [1021]

**20. Short title, extent and repeals.**—(1) This Act may be cited as the Police Act, 1946. [1022]

(2) Except so far as it amends section eleven of the Police (Scotland) Act, 1857, this Act shall not extend to Scotland. [1023]

(3) This Act shall not extend to Northern Ireland. [1024]

(4) The enactments specified in the Fifth Schedule to this Act are hereby repealed to the extent mentioned in the third column of that Schedule, in the case of the enactments specified in Part I of that Schedule, as from the commencement of this Act, and in the case of the enactments specified in Part II of that Schedule, as from the appointed day. [1025]

*Commencement of Act.*—April 15, 1946.

*Appointed day.*—April 1, 1947, see s. 19, ante.

## SCHEDULES

### Section 2

### FIRST SCHEDULE

#### PROVISIONS FOR ADJUSTMENT OF RATES PAYABLE IN CERTAIN COUNTIES

1. There shall be ascertained the aggregate of the following amounts, that is to say—

- (a) the net approved police expenditure of the council of the county for the year ended on the thirty-first day of March, nineteen hundred and thirty-nine (in this Schedule referred to as the standard year) ; and

- (b) the net approved police expenditure for the standard year of the council of each non-county borough comprised in the county which maintained a separate police force during that year ;

and the amount so ascertained shall be taken to be the standard police expenditure of the county.

2. There shall be ascertained the amount in the pound of the rate that would have been required by precept of the council of the county to be levied by rating authorities for the purpose of meeting the standard police expenditure of the county if that expenditure had constituted expenditure for general county purposes ; and the amount so ascertained shall, in relation to each non-county borough comprised in the county, be taken to be the notional standard police rate of the borough.

3. There shall be ascertained in the case of each non-county borough comprised in the county, the amount in the pound of the rate required to raise the amount of the net approved police expenditure of the council of the borough for the standard year ; and the amount so ascertained shall be taken to be the actual standard police rate of the borough.

4. There shall be ascertained, in the case of each of the three years next after the appointed day, the amount in the pound of the rate which, if this Schedule did not apply to the county, would be required by precept of the council of the county to be levied in that year by the rating authority for each of the county districts in the county for the purpose of meeting the expenditure of the county council for general county purposes ; and the amount so ascertained in relation to any such district shall be taken to be the unadjusted county rate of that district for that year.

5. Where the notional standard police rate of any non-county borough comprised in the county exceeds the actual standard police rate of the borough by twopence or upwards, then, during each of the said three years, the amount of the rates required by precept of the council of the county to be levied by rating authorities for the purpose of meeting the expenditure of that council for general county purposes shall be varied as follows, that is to say—

- (a) in the case of any such borough as aforesaid, the rate shall be less than the unadjusted county rate by the appropriate fraction of the difference between the notional and the actual standard police rates of the borough ;
- (b) in the case of a non-county borough of which the notional standard police rate is equal to the actual standard police rate, or exceeds the actual standard police rate by less than twopence, the rate shall be equal to the unadjusted county rate ; and
- (c) in the case of the other county districts, the rate shall be the unadjusted county rate together with such additional equal amount as may be required to raise the balance of the said expenditure.

6. For the purposes of the last foregoing paragraph the appropriate fraction shall be—

- (a) in the first year after the appointed day, three-quarters ;
- (b) in the second such year, one-half ;
- (c) in the third such year, one-quarter.

7.—(1) In this Schedule the expression “ approved police expenditure ” means expenditure incurred for police purposes and approved by the Secretary of State for the payment of grant out of moneys provided by Parliament, and the expression “ net approved police expenditure ” means approved police expenditure after deducting the amount of any grant so paid.

(2) Where, during the standard year, an agreement was in force under section fourteen of the County Police Act, 1840, for consolidating the police force of a borough with that of the county, then—

- (a) where the borough is a non-county borough, the net approved police expenditure of the council of the borough for the standard year shall, for the purposes of paragraph 3 of this Schedule, be taken to be the amount of the contribution paid by that council in respect of that year in pursuance of the consolidation agreement ;
- (b) where the borough is a county borough, the amount of the contribution paid by the council of the borough in respect of the standard year in pursuance of the consolidation agreement shall be deducted in calculating for the purpose of paragraph 1 of this Schedule the net approved police expenditure of the council of the county for that year. [1026]

*Effect of Schedule.*—This Schedule contains provisions, referred to in s. 2, *ante*, for adjusting the incidence of rates between non-county boroughs and the other rating authorities of the county, where the Home Secretary is satisfied that the rates of a non-county borough will be substantially increased as a result of the merger of that borough in the county police area.

Broadly speaking the provisions of the Schedule are applicable in cases where, in respect of the last pre-war year, the amount which would have been levied on any non-county borough if it had formed part of the county for police purposes exceeded the amount of its police expenditure, by an amount of at least twopence in the rates. To determine the amount of the adjustment four amounts have first to be ascertained: (i) the standard police expenditure of the county, (ii) the notional standard police rate of the borough, (iii) the actual standard police rate of the borough, and (iv) the unadjusted county rate. Amount (i) is ascertained by aggregating the net approved police expenditure of the county for the year ending March 31, 1939 (the standard year) with the similar expenditure of the non-county borough for the same period. Amount (ii) is the amount in the pound of the rate required to raise amount (i) if it had constituted expenditure for general county purposes. Amount (iii) is the amount in the pound of the rate required to raise the net approved police expenditure of the non-county borough for the standard year. Amount (iv) is the amount in the pound of the rate for each of the three years after April 1, 1947, if this Schedule did not apply, required to raise the expenditure of the county for general county purposes. If in the case of any non-county borough, amount (ii) exceeded amount (iii) by twopence or more, amount (iv) shall, so far as it relates to such borough, be reduced by a fraction of the difference between the two first-mentioned amounts. In such a case, amount (iv) in its relation to the other districts of the county, shall be increased by an amount sufficient to make up the balance of the rate so reduced. In order to provide a gradual adjustment of the non-county borough rate to the unadjusted county rate which will be payable at the end of the three years, the fraction above referred to is reduced by stages, being  $\frac{1}{3}$  in the first,  $\frac{1}{3}$  in the second and  $\frac{1}{3}$  in the third of the said years. The term "net approved police expenditure" is defined in paragraph 7, *supra*. If, during the standard year, the non-county borough was consolidated under s. 14 of the County Police Act, 1840 (12 Halsbury's Statutes 790), with the police area of the county, its net approved police expenditure will be the amount of the contribution payable under the consolidation agreement. In calculating the net approved police expenditure of a county, amounts received during the standard year under consolidation agreements with county boroughs are to be deducted.

*County Police Act, 1840, s. 14.*—12 Halsbury's Statutes 790.

## Section 3

## SECOND SCHEDULE

### ADAPTATION OF ENACTMENTS WITH RESPECT TO AMALGAMATION SCHEMES

1. Subject to the provisions of this Schedule, references in any enactment to a police area or district or to a police force shall be construed respectively as including references to a combined area or to a combined force; and in relation to a combined area or a combined force references in any enactment to the police authority, the chief officer of police, or the police fund shall be construed respectively as references to the combined police authority, the chief constable of the combined area, and the combined police fund.

2.—(1) Subject to the provisions of this Schedule, any enactment relating to county police (including special constables) shall apply in relation to the combined area constituted by a county scheme as if that area were a county, and as if for references to any term mentioned in the first column of the following Table there were substituted references to the term set out opposite that term in the second column of that Table :—

TABLE

Standing joint committee for the county ..	Combined police authority.
Chief constable of the county .. ..	Chief constable of the combined area.
Justice of the peace for the county ..	Justice of the peace having jurisdiction in any part of the combined area.
Clerk of the peace of the county or clerk of the county council.	Clerk of the combined police authority.
County fund .. .. .	Combined police fund.
Treasurer of the county .. .. .	Treasurer of the combined police fund.

(2) Subject to the provisions of this Schedule, any enactment relating to borough police (including special constables) shall apply in relation to the combined area constituted by a borough scheme as if that area were a borough having a separate police force, and as if for references to any term mentioned in the first column of the

following Table there were substituted references to the term set out opposite that term in the second column of that Table :—

TABLE

Watch Committee . . . . .	Combined police authority.
Superintendent of the borough police . .	Chief constable of the combined area.
Justice of the peace having jurisdiction in the borough.	Justice of the peace having jurisdiction in any part of the combined area.
Borough fund or general rate fund . .	Combined police fund.

Provided that any enactment which requires the approbation or consent of the council of a borough for the purpose of the exercise by the watch committee of any of their powers shall not apply in relation to the exercise of those powers by the combined police authority.

3.—(1) Section eight of the County Police Act, 1839 (which relates to the jurisdiction of county constables), shall have effect as if the reference therein as amended by this Schedule to a county adjoining a county, or adjoining the combined area constituted by an amalgamation scheme, included a reference to a combined area constituted by a county scheme and adjoining a county or adjoining such an area.

(2) References to a county in subsection (2) of section one hundred and ninety-one of the Municipal Corporations Act, 1882 (which relates to the jurisdiction of borough constables), shall include references to the combined area constituted by an amalgamation scheme.

4. Special constables shall not be appointed under the Special Constables Act, 1831, or under section one hundred and ninety-six of the Municipal Corporations Act, 1882, for any county or borough comprised in a combined area, but any appointment of a special constable under those Acts as amended by this Schedule shall be made for the whole of the combined area.

5. Section eleven of the Police (Scotland) Act, 1857 (which prescribes the jurisdiction of constables in the border counties), shall have effect as if the references therein to the border counties of Northumberland and Cumberland included references respectively to a combined area comprising Northumberland and a combined area comprising Cumberland.

6. Section twenty-four of the County and Borough Police Act, 1859 (which provides for grant of gratuities to constables for special services), shall have effect as if the reference therein to the police rate included a reference to the combined force fund.

7. Paragraph (1) of the proviso to section thirty-three of the Police Act, 1890 (which defines police areas and police authorities), shall not apply with respect to the powers of the combined police authority under a county scheme, or with respect to sums payable under that Act by such an authority ; and paragraph (2) of that proviso shall not apply with respect to contributions required to be made by such a scheme.

8. The Police (Weekly Rest Day) Act, 1910, shall apply to a combined police authority as it applies to the police authority of a county or borough.

9. Paragraph 12 of the Schedule to the Police Act, 1919 (which provides for the election of a central committee by delegates of certain police forces), shall have effect as if references therein to county police forces and borough police forces included respectively references to combined forces constituted by county schemes and borough schemes.

10.—(1) The court of quarter sessions to which an application may be made under subsection (1) of section seventeen of the Police Pensions Act, 1921, by a person aggrieved by a decision of a combined police authority shall be—

- (a) in the case of a combined area constituted by a county scheme, the court of quarter sessions for any county comprised in the combined area ;
- (b) in the case of a combined area constituted by a borough scheme, the court of quarter sessions for any county or borough comprised in the combined area.

(2) Paragraph (a) of the proviso to section thirty of the said Act (which defines police areas and police authorities) shall not apply with respect to the powers of the combined police authority under a county scheme or with respect to sums payable under that Act by such an authority ; and paragraph (b) of that proviso shall not apply with respect to contributions required to be made by virtue of such a scheme.



11. Subsection (2) of section one hundred and eighty-four of the Local Government Act, 1933, and paragraph (a) of the proviso to subsection (2) of section one hundred and eighty-seven of that Act (which relate to payments out of a county fund and the general rate fund of a borough respectively) shall have effect as if references therein to an enactment included references to an amalgamation scheme. [1027]

*County Police Act, 1839, s. 8.*—12 Halsbury's Statutes 777.

*Municipal Corporations Act, 1882, ss. 191, 196.*—10 Halsbury's Statutes 636, 638.

*Special Constables Act, 1831.*—12 Halsbury's Statutes 759.

*County and Borough Police Act, 1859, s. 24.*—12 Halsbury's Statutes 822.

*Police Act, 1890, s. 33, proviso, para. (1) and (2).*—*Ibid.* 852.

*Police (Weekly Rest Day) Act, 1910.*—*Ibid.* 860.

*Police Act, 1919, Schedule, para. 12.*—*Ibid.* 871.

*Police Pensions Act, 1921, ss. 17 (1), 30, proviso, para. (a) and (b).*—*Ibid.* 882, 888.

*Local Government Act, 1933, ss. 184 (2), 187 (2), proviso, para. (a).*—26 Halsbury's Statutes 406, 408.

*Definitions.*—For definitions of "combined area," "combined force," "combined police authority," "combined police fund," "enactment," "police authority" and "standing joint committee," see s. 19, *ante*; for "amalgamation scheme," "borough scheme" and "county scheme," see s. 3, *ante*.

## Section 9

## THIRD SCHEDULE

### TRANSITORY PROVISIONS

1. All members of a transferred force who are transferred by this Act or by a scheme made thereunder shall be deemed to have been duly appointed as members of the new force under the County Police Act, 1839, or under section one hundred and ninety-one of the Municipal Corporations Act, 1882, as the case may be, and to have been duly attested as such, and shall hold in that force the same ranks respectively as they held immediately before the date of transfer in the force from which they are transferred.

2. Any person appointed before the date of transfer to be a special constable for a transferred area shall, if serving as such immediately before that date, be deemed to have been appointed a special constable for the new area under the Special Constables Act, 1831, or under section one hundred and ninety-six of the Municipal Corporations Act, 1882, as the case may be, and to have been duly attested as such.

3.—(1) For the purposes of the Police Pensions Act, 1921, any member of a transferred force who is transferred by this Act or by a scheme made thereunder shall be entitled to reckon as approved service in the new force any approved service which he was entitled to reckon under that Act immediately before the date of transfer, and any pension, allowance or gratuity granted under that Act before that date to a member of a transferred force or to his widow, children or dependent relatives shall be treated after that date as if it had been granted by the police authority for the new area, and shall be payable by that authority accordingly.

(2) Any investments which, immediately before the date of transfer, were held in accordance with the provisions of subsection (2) of section twenty-two of the Police Pensions Act, 1921, by the police authority for a transferred area shall be transferred to the police authority for the new area.

4. Where, immediately before the date of transfer, the watch committee of a borough which ceases to be a separate police area by virtue of section one of this Act were exercising functions under section five of the Police, Factories, &c. (Miscellaneous Provisions) Act, 1916, or under the House to House Collections Act, 1939, then, unless and until the Secretary of State otherwise directs, that committee shall continue to exercise those functions in consultation with the police authority for the county or the combined area, as the case may be.

5.—(1) Where a borough ceases to be a separate police area by virtue of section one of this Act, then, subject to the provisions of the last foregoing paragraph, any regulations made by the police authority for the new area in pursuance of any enactment before the date of transfer shall, if in force on that date, continue in force and have effect throughout that area (including the borough) as if they had been duly made for the whole of that area in pursuance of that enactment, and any regulations made by the police authority for the borough in pursuance of that enactment shall cease to have effect on that date.



(2) Any regulations made under section twenty-three of the Police Pensions Act, 1921, or under Article 6 of the Special Constables Order, 1923, by the police authority for a transferred area not being such a borough as aforesaid, shall cease to have effect on the date of transfer, but without prejudice to the power of the police authority for the new area to make new regulations thereunder.

(3) Subsection (2) of section thirty-eight of the Interpretation Act, 1889, shall apply in relation to any regulations which cease to have effect as aforesaid, as if the regulations were an enactment and had been repealed by Act of Parliament.

6. Where any matter has arisen before the date of transfer which affects a member of a borough police force the members of which are transferred to a county force or a combined force constituted by a county scheme and the matter is, on that date, under paragraph (2) of Regulation twenty of the Police Regulations, awaiting determination by the watch committee or entitles him to appear before that committee, then, as from that date, the said paragraph (2) shall apply with respect to that matter as if the chief constable of the county or of the combined force were substituted for the watch committee.

7. Where immediately before the date of transfer a member of a transferred force is entitled to appeal to a Secretary of State under the Police (Appeals) Act, 1927, or where any such member has appealed to a Secretary of State under that Act before the said date but the appeal has not been determined, the disciplinary authority for the new area shall be the respondent for the purposes of the appeal, and in the case of a pending appeal, shall be substituted as respondent for the disciplinary authority for the transferred force.

8. Any register kept in pursuance of any enactment by the chief constable of a transferred area shall be transferred by him to the chief constable of the new area as soon as may be after the date of transfer, and as from that date shall be deemed to form part of the corresponding register kept by that chief constable.

9. Subject to the foregoing provisions of this Schedule, anything done before the date of transfer by, to or before the police authority for a transferred area, or by, to or before the chief constable of any such area, shall, in so far as may be necessary for the purpose or in consequence of the provisions of this Act or of the scheme, have effect after that date, as if it had been done by, to or before the police authority for the new area, or the chief constable of that area.

10. In this Schedule—

(a) the expression "transferred area" means a police area which becomes comprised in the county police area or in a combined police area by virtue of the provisions of this Act or of an amalgamation scheme made thereunder, or which is divided into two or more police areas by virtue of a scheme under this Act amending or revoking such a scheme, and the expression "transferred force" means the police force of a transferred new area;

(b) the expression "new area" means, in relation to any person or property, the police area in which a transferred area becomes comprised as aforesaid or, in the case of an area which is divided into two or more police areas by virtue of a scheme under this Act amending or revoking an amalgamation scheme, such of those areas as may be prescribed by that scheme, and the expression "new force" means the police force of the new area. [1028]

*County Police Act, 1839.*—12 Halsbury's Statutes 775.

*Municipal Corporations Act, 1882, ss. 191, 196.*—10 Halsbury's Statutes 636, 638.

*Special Constables Act, 1831.*—12 Halsbury's Statutes 759.

*Police Pensions Act, 1921.*—*Ibid.* 873. For ss. 22 (2), 23, see *ibid.* 884, 885.

*Police, Factories, etc. (Miscellaneous Provisions) Act, 1916, s. 5.*—*Ibid.* 865.

*House to House Collections Act, 1939.*—32 Halsbury's Statutes 110.

*Interpretation Act, 1889, s. 38 (2).*—18 Halsbury's Statutes 1005.

*Police (Appeals) Act, 1927.*—12 Halsbury's Statutes 893.

*Definitions.*—For definitions of "amalgamation scheme," "combined area," "combined force," "date of transfer," "enactment" and "police authority," see s. 19, *ante*; for "transferred area," "transferred force," "new area" and "new force," see para. 10, *supra*.

## Section 16

## FOURTH SCHEDULE

## AREAS COMPRISED IN THE METROPOLITAN POLICE DISTRICT

The County of London, excluding the City of London ;

The County of Middlesex ;

The County Boroughs of Croydon, East Ham, West Ham ; and the following boroughs, urban districts and rural districts and parishes :—

In the County of Essex : the boroughs of Barking, Chingford, Dagenham, Ilford, Leyton, Walthamstow, Wanstead and Woodford ; and the urban districts of Chigwell, Waltham Holy Cross.

In the County of Herts : the urban districts of Barnet, Bushey, Cheshunt, East Barnet ; the rural district of Elstree ; and the parishes of Northaw in the rural district of Hatfield, and Aldenham in the rural district of Watford.

In the County of Kent : the boroughs of Beckenham, Bexley, Bromley, Erith ; and the urban districts of Chislehurst and Sidcup, Crayford, Orpington, Penge.

In the County of Surrey : the boroughs of Barnes, Beddington and Wallington, Epsom and Ewell, Kingston, Malden and Coombe, Mitcham, Richmond, Surbiton, Sutton and Cheam, Wimbledon ; and the urban districts of Banstead, Carshalton, Coulsdon and Purley, Esher, Merton and Morden. [1029]

*Effect of Schedule.*—S. 16, *ante*, provides that as from April 1, 1947, the Metropolitan Police District shall consist of the areas specified in this Schedule. See also Regulation 8 of the L. G. (Boundary Commission) Regulations, 1945, S. R. & O., 1945, No. 1569.

## Section 20

## FIFTH SCHEDULE

## ENACTMENTS REPEALED

## PART I

*Enactments Repealed as from the Commencement of this Act*

Session and Chapter	Short Title	Extent of Repeal
3 & 4 Vict. c. 88 ..	The County Police Act, 1840.	Sections fourteen and fifteen.
19 & 20 Vict. c. 69 ..	The County and Borough Police Act, 1856.	Sections five and twenty.
9 & 10 Geo. 6, c. 26 ..	The Emergency Laws (Transitional Provisions) Act, 1946.	So much of Part II of the First Schedule as relates to the Defence (Amalgamation of Police Forces) Regulations, 1942. [1030]

## PART II

*Enactments Repealed as from the Appointed Day*

Session and Chapter	Short Title	Extent of Repeal
10 Geo. 4, c. 44 ..	The Metropolitan Police Act, 1829.	In section four, from the beginning of the section, to the words " District, and " ; section thirty-four ; and the Schedule.
3 & 3 Vict. c. 47 ..	The Metropolitan Police Act, 1839.	Section two.
23 & 24 Geo. 5, c. 51 ..	The Local Government Act, 1933.	Section one hundred and thirty-six. [1031]

*County Police Act, 1840, ss. 14, 15.*—12 Halsbury's Statutes 790.

*County and Borough Police Act, 1856, ss. 5, 20.*—*Ibid.* 813, 816.

*Emergency Laws (Transitional Provisions) Act, 1946, Sched. I, Part II.*—39 Halsbury's Statutes 890.

*Metropolitan Police Act, 1829, ss. 4, 34 and Sched. ; 12 Halsbury's Statutes 744, 756, 757.*

*Metropolitan Police Act, 1839, s. 2.*—*Ibid.* 767.

*Local Government Act, 1933, s. 136.*—26 Halsbury's Statutes 378.

## ORDERS, CIRCULARS AND MEMORANDA

## THE POLICE REGULATIONS OF FEBRUARY 22, 1946

S. R. &amp; O., 1946, No. 270

February 22, 1946

I, the Right Honourable James Chuter Ede, one of His Majesty's Principal Secretaries of State, in pursuance of the powers conferred on me by section 4 of the Police Act, 1919, hereby make the following Regulations amending the Police Regulations :—

1. In proviso (a) to Regulation 10 of the said Regulations for the words "*in any force*" there shall be substituted the words "*in any other force.*"

[1032]

2. Proviso (iv) to paragraph (1) of Regulation 28 of the said Regulations is hereby revoked.

[1033]

3. The proviso to paragraph (4) of Regulation 29 of the said Regulations is hereby revoked.

[1034]

4. In paragraph (1) of Regulation 37 of the said Regulations for the words from "*at the rate of 2s. per hour for a constable*" to the end of the paragraph there shall be substituted the words "*at the rate of 3s. 6d. an hour for a sergeant and 3s. an hour for a constable.*"

[1035]

5. In Regulation 38 of the said Regulations the words from "*and the provisions of Regulation 37*" to the end of the Regulation shall be omitted.

[1036]

6. In Regulation 39 of the said Regulations for the words "*in lieu at the rate of one-seventh of his weekly pay for each rest day lost*" there shall be substituted the words "*at the rate prescribed by paragraph (1) of Regulation 37.*"

[1037]

7. At the end of paragraph (2) of Regulation 65 of the said Regulations there shall be added the following proviso :—

"(c) *where a member of a police force, being a married man or a widower with a child or children in receipt of an allowance at the rate provided for a married man, satisfies the Chief Officer of Police—*

(i) *that he has lived with his family since his appointment to the force ;*

(ii) *either (a) that his place of duty has been changed since he so lived with his family or (b) that he lived with his family in a house or quarters provided under paragraph (1) of this Regulation which he and his family left by reason of his ceasing to serve as a member of the force in such circumstances that section one of the Police and Firemen (War Service) Act, 1939, as amended or extended by or under any enactment applied to him ;*

(iii) *that he is not living with his family ; and*

(iv) *that the only reason why he is not so living is that he is unable to find accommodation suitable for his family at a reasonable cost within a reasonable distance of his place of duty,*

*the flat-rate or maximum limit fixed for his rank under this paragraph shall in relation to him be increased by an amount equivalent to 25s. a week.*"

[1038]

8. In Regulation 69 of the said Regulations for the table contained in the Regulation there shall be substituted the following table :—

<i>Superintendents and Inspectors</i>	..	15s. 0d. weekly	
<i>Sergeants and Constables</i>	..	12s. 6d. weekly	[1039]

9. These Regulations shall come into force on the first day of March, 1946. [1040]

\* \* \* \*

## THE POLICE (WOMEN) REGULATIONS OF FEBRUARY 22, 1946

*S. R. & O.*, 1946, No. 271

*February 22, 1946*

I, the Right Honourable James Chuter Ede, one of His Majesty's Principal Secretaries of State, in pursuance of the powers conferred on me by section 4 of the Police Act, 1919, hereby make the following Regulations amending the Police (Women) Regulations :—

1. In proviso (a) to Regulation 5 of the said Regulations for the words "*in any force*" there shall be substituted the words "*in any other force.*" [1041]

2. Proviso (iii) to paragraph (1) of Regulation 21 of the said Regulations is hereby revoked. [1042]

3. The proviso to paragraph (4) of Regulation 22 of the said Regulations is hereby revoked. [1043]

4. In paragraph (1) of Regulation 30 of the said Regulations for the words from "*at the rate of 2s. per hour for a sergeant*" to the end of the paragraph there shall be substituted the words "*at the rate of 3s. an hour for a sergeant and 2s. 9d. an hour for a constable.*" [1044]

5. In Regulation 31 of the said Regulations the words from "*and the provisions of Regulation 30*" to the end of the Regulation shall be omitted. [1045]

6. In Regulation 32 of the said Regulations for the words "*in lieu at the rate of one-seventh of her weekly pay for each rest day lost*" there shall be substituted the words "*at the rate prescribed by paragraph (1) of Regulation 30.*" [1046]

7. In Regulation 60 of the said Regulations for the table contained in the Regulation there shall be substituted the following table :—

<i>Superintendents (where such a rank is adopted under Regulation 1) and</i>			
<i>Inspectors</i>	..	15s. 0d. weekly	
<i>Sergeants and Constables</i>	..	12s. 6d. weekly	[1047]

8. These Regulations shall come into force on the first day of March, 1946. [1048]

\* \* \* \*

## THE WOMEN'S AUXILIARY POLICE CORPS RULES, 1946

*S. R. & O.*, 1946, No. 272

*February 22, 1946*

In pursuance of the power conferred on me by Regulation 40Ac of the Defence (General) Regulations, 1939, I [*i.e.* the Secretary of State] hereby

make the following Rules amending the Women's Auxiliary Police Corps Rules, 1945, as subsequently amended :—

1. For the proviso to Rule 32 of the said Rules there shall be substituted the following proviso :—

“ Provided that, in the case of a member of Class B, instead of the payments set out in paragraph (1) of Regulation 30 of the said Regulations there shall be substituted payments on the following scale :—

						Hourly rate.
						s. d.
Senior Auxiliary	..	..	..	..	..	2 6
Leading Auxiliary	..	..	..	..	..	2 3
Member of Class B other than above who is—						
(a) 20 years of age or over	..	..	..	..	..	1 9
(b) under 20 years of age	..	..	..	..	..	1 6 [1049]

2. In paragraph (1) of Rule 47 of the said Rules the words “ or gratuity ” shall be omitted, after the words “ entitled to allowances ” the words “ or gratuities ” shall be inserted, and after the words “ such allowances ” there shall be inserted the words “ and gratuities.” [1050]

3.—(1) These Rules may be cited as the Women's Auxiliary Police Corps Rules, 1946.

(2) These Rules shall come into force on the first day of March, 1946. [1051]

\* \* \* \* \*

Note as to S. R. & O., 1946, No. 272.—*The amendment made by Rule 1 increases the payments for overtime to a member of Class B of the Women's Auxiliary Police Corps. The purpose of the amendment made by Rule 2 is to enable the substitution, with the guardian's consent, of a gratuity for any allowance payable to the child of a deceased member of the Women's Auxiliary Police Corps.*

## THE POLICE AMALGAMATION (SUSSEX) ORDER, 1946

S. R. & O., 1946, No. 851

June 15, 1946

In pursuance of the powers conferred on me by subsection (3) of section 13 of the Police Act, 1946, I [*i.e.* the Secretary of State] hereby make the following Order :—

1. The Sussex police authority constituted by the Police Amalgamation (Sussex) Order, 1943, and the Police Amalgamation (Sussex) Order, 1944, shall have for police purposes the powers of acquisition of land conferred on combined police authorities within the meaning of the Police Act, 1946, by subsection (3) of section 5 thereof. [1052]

2.—(1) This Order may be cited as the Police Amalgamation (Sussex) Order, 1946, and the Police Amalgamation (Sussex) Order, 1943, the Police Amalgamation (Sussex) Order, 1944, and this Order may be cited together as the Police Amalgamation (Sussex) Orders, 1943 to 1946.

(2) This Order shall come into force on the first day of July, 1946. [1053]

\* \* \* \* \*

## THE POLICE REGULATIONS OF JUNE 27, 1946

S. R. & O., 1946, No. 951

June 27, 1946

I, the Right Honourable James Chuter Ede, one of His Majesty's Principal Secretaries of State, in pursuance of the powers conferred on me by section 4

of the Police Act, 1919, hereby make the following Regulations amending the Police Regulations :—

1. In Regulation 10 of the said Regulations for the words "*a period of two years from his appointment*" there shall be substituted the words "*the period of the first two years of his service in the force since his last appointment thereto*" and in proviso (a) to the said Regulation 10, after the words "*one year*" where they secondly occur, there shall be inserted the words "*either in the same force on a previous appointment thereto or.*" [1054]

2. In paragraph (1) of Regulation 27A of the said Regulations the words "*During the period of the present emergency*" shall be omitted. [1055]

3. At the end of Regulation 39 of the said Regulations there shall be added the words "*or, in any case to which that paragraph does not apply, at the rate of one-sixth of his pay in respect of the week in which the rest day on which he was required to do duty fell.*" [1056]

4. In paragraph (1) of Regulation 52 of the said Regulations the words "*who has completed his period of probation in one force*" shall be omitted and in paragraph (2) of that Regulation the words "*after completing his period of probation*" shall be omitted. [1057]

5. After Regulation 89A of the said Regulations there shall be inserted the following Regulation :—

" 89B.—(1) *Subject to the provisions of paragraph (3) hereof a member of a county police force or a combined police force who, having been a member of the police force of a borough comprised in the county or the combined area, has been transferred to the county police force or the combined police force by or under the provisions of the Police Act, 1946, shall not be assigned to duties which in the opinion of the Secretary of State make it necessary for him to establish his home outside the borough.*

(2) *This Regulation shall apply in relation to a member of a county police force or a combined police force who has been a member of the police force of a borough comprised in the county or the combined area and either reverts to the county police force or the combined police force under subsection (1) of section 2 of the Police (Overseas Service) Act, 1945, as applied by subsection (2) of section 14 of the Police Act, 1946, or, having been a person to whom section 1 of the Police and Firemen (War Service) Act, 1939, applied, became a member of the county police force or the combined police force without having been deemed under subsection (2) of section 2 of the last-named Act to have retired in the same manner as it applies to a member of a county police force or a combined police force who has been transferred thereto by or under the provisions of the Police Act, 1946.*

(3) *This Regulation shall not apply to such a member of a county police force or combined police force as is described above if, since he became a member of the police force of the borough—*

(a) *he has been a chief officer of police ;*

(b) *he has retired, resigned or been dismissed from a police force, has been deemed to have retired from a police force under subsection (2) of section 2 of the Police and Firemen (War Service) Act, 1939, or has engaged for a period of overseas service in such a manner that he has not acquired, under subsection (1) of section 2 of the Police (Overseas Service) Act, 1945, a right of reverter or, having acquired the said right of reverter, has lost or not availed himself of the said right or has removed, within the meaning of subsection (1) of section 8 of the Police Pensions Act, 1921, from one police force to another ;*

- (c) *the police force of the borough has become subject to a consolidation agreement under section 14 of the County Police Act, 1840 ; or*
- (d) *he has given written notice to the chief officer of police of any county police force or combined police force of which he was at the time a member of his desire that this Regulation should cease to apply to him.*

(4) *Where a member of a county police force or combined police force has been a member of the police force of more than one borough comprised in the county or combined area references in this Regulation to the police force of such a borough shall, in relation to him, be construed as references to the police force of such a borough of which he was last a member.* [1058]

6. Paragraph (1) of Regulation 90 of the said Regulations shall be omitted. [1059]

7. These Regulations shall come into force on the 15th day of July, 1946. [1060]

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## THE POLICE (WOMEN) REGULATIONS OF JUNE 27, 1946

S. R. & O., 1946, No. 952

June 27, 1946

I, the Right Honourable James Chuter Ede, one of His Majesty's Principal Secretaries of State, in pursuance of the powers conferred on me by Section 4 of the Police Act, 1919, hereby make the following Regulations amending the Police (Women) Regulations :—

1. For paragraph (2) of Regulation 3 of the said Regulations there shall be substituted the following paragraph :—

*“(2) must not be under 22 or over 35 years of age or less than 5 feet 4 inches in height ;*

*Provided that a candidate who does not comply with the requirements of this paragraph may be appointed—*

(a) *if she has had previous service in a police force otherwise than in a relevant auxiliary capacity, or*

(b) *in other special circumstances approved by the Secretary of State.”*

[1061]

2. Paragraph (2) of Regulation 4 of the said Regulations shall be omitted. [1062]

3. In Regulation 5 of the said Regulations for the words “ *a period of two years from her appointment* ” there shall be substituted the words “ *the period of the first two years of her service in the force since her last appointment thereto* ” and in proviso (a) to the said Regulation 5, after the words “ *one year* ” where they secondly occur there shall be inserted the words “ *either in the same force on a previous appointment thereto or.* ” [1063]

4. In paragraph (1) of Regulation 20A of the said Regulations the words “ *During the period of the present emergency* ” shall be omitted. [1064]

5. In paragraph (2) of Regulation 21 of the said Regulations after the word “ *means* ” there shall be inserted the words “ *subject to the provisions of paragraph (4) of Regulation 80A.* ” [1065]

6. At the end of Regulation 32 of the said Regulations there shall be added the words “ *or, in any case to which that paragraph does not apply, at the rate of one-sixth of her pay in respect of the week in which the rest day on which she was required to do duty fell.* ” [1066]



7. In paragraph (1) of Regulation 43 of the said Regulations the words "*who has completed her period of probation in one force*" shall be omitted and in paragraph (2) of that Regulation the words "*after completing her period of probation*" shall be omitted. [1067]

8. In Regulation 67 of the said Regulations after the words "*sick list*" there shall be inserted the words "*or is on maternity leave*" and for the word "*sickness*" there shall be substituted the words "*sick leave.*" [1068]

9.—(1) At the end of paragraph (1) of Regulation 79 of the said Regulations there shall be added the following proviso :—

"(iii) *Nothing in this paragraph shall compel a police authority to provide medical attendance during a period of unpaid maternity leave or, during a period of paid maternity leave, to provide medical attendance in respect of injury, or illness which is solely or mainly due to pregnancy or childbirth or their after effects.*"

(2) At the end of paragraph (3) of the said Regulation 79 there shall be added the following proviso :—

"*Provided that nothing in this paragraph shall compel a police authority to provide dental treatment during a period of unpaid maternity leave or, during a period of paid maternity leave, to provide dental treatment which is rendered necessary or desirable solely or mainly by pregnancy or childbirth or their after effects.*" [1069]

10. After Regulation 80 of the said Regulations there shall be inserted the following Regulation :—

"80A.—(1) *During the maternity period a married woman member of a police force shall not be entitled to any sick leave in respect of any injury, illness or incapacity for duty which is solely or mainly due to pregnancy or childbirth or their after effects but shall be entitled to take maternity leave for the whole or any part or parts of the period of which, subject to paragraph (2) of this Regulation, three months shall be paid maternity leave and the remainder unpaid maternity leave.*

(2) *A married woman member of a police force shall not be entitled to more than three months' paid maternity leave during any period of twelve months or to any paid maternity leave before the end of her period of probation.*

(3) *No deductions in respect of any period or periods of paid maternity leave shall be made from the service of a married woman member of a police force in calculating her period of approved service for the purposes of the Police Pensions Act, 1921.*

(4) *In calculating the service of a married woman member of a police force for the purposes of probation, promotion or increments in pay any period or periods of unpaid maternity leave shall be disregarded.*

(5) *In this Regulation the maternity period means, in relation to a married woman member of a police force who is certified by a medical practitioner approved by the police authority to be pregnant, the period beginning six months before the date which is estimated by the said medical practitioner as being the probable date of birth and ending nine months after the birth of the child.*" [1070]

11. After Regulation 81 of the said Regulations there shall be inserted the following Regulation :—

"81A.—(1) *Subject to the provisions of paragraph (3) hereof a woman member of a county police force or a combined police force who, having been a member of the police force of a borough comprised in the county or the combined area, has been transferred to the county police force or the combined police force by or under the provisions of the Police Act, 1946,*

shall not be assigned to duties which in the opinion of the Secretary of State make it necessary for her to establish her home outside the borough.

(2) This Regulation shall apply in relation to a woman member of a county police force or a combined police force who has been a member of the police force of a borough comprised in the county or the combined area and either reverts to the county police force or the combined police force under subsection (1) of section 2 of the Police (Overseas Service) Act, 1945, as applied by subsection (2) of section 14 of the Police Act, 1946, or, having been a person to whom section 1 of the Police and Firemen (War Service) Act, 1939, applied, became a member of the county police force or, as the case may be, the combined police force without having been deemed under subsection (2) of section 2 of the last-named Act to have retired in the manner as it applies to a member of a county police force or a combined police force who has been transferred thereto by or under the provisions of the Police Act, 1946.

(3) This Regulation shall not apply to such a member of a county police force or combined police force as described above if, since she became a member of the police force of the borough—

- (a) she has retired, resigned or been dismissed from a police force, has been deemed to have retired from a police force under subsection (2) of section 2 of the Police and Firemen (War Service) Act, 1939, or has engaged for a period of overseas service in such a manner that she has not acquired, under subsection (1) of section 2 of the Police (Overseas Service) Act, 1945, a right of reverter or, having acquired the said right of reverter, has lost or not availed herself of the said right or has removed, within the meaning of subsection (1) of section 8 of the Police Pensions Act, 1921, from one police force to another ;
- (b) the police force of the borough has become subject to a consolidation agreement under section 14 of the County Police Act, 1840 ; or
- (c) she has given written notice to the chief officer of police of any county police force or combined police force of which she was at the time a member of her desire that this Regulation should cease to apply to her.

(4) Where a woman member of a county police force or combined police force has been a member of the police force of more than one borough comprised in the county or combined area references in this Regulation to the police force of such a borough shall, in relation to her, be construed as references to the police force of such borough of which she was last a member."

[1071]

12. Paragraph (1) of Regulation 82 of the said Regulations shall be omitted. [1072]

13. These Regulations shall come into force on the 15th day of July, 1946. [1073]

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## THE POLICE REGULATIONS OF NOVEMBER 6, 1946

S. R. & O., 1946, No. 1798

November 6, 1946

I, the Right Honourable James Chuter Ede, one of His Majesty's Principal Secretaries of State, in pursuance of the powers conferred on me by section 4 of the Police Act, 1919, hereby make the following Regulations amending the Police Regulations :—

1. For Regulation 48 of the said Regulations there shall be substituted the following Regulation :—

"48. Subject to the provisions of Regulations 27A and 63 the scales of pay for sergeants and constables shall be as follows :—

*Scale of pay for Sergeants*

						s.	d.	
On promotion	..	..	..	..	..	150	0	weekly
After one year from promotion	..	..	..	..	..	153	0	"
„ two years	„	„	..	..	..	156	0	„
„ three	„	„	..	..	..	159	0	„
„ four	„	„	..	..	..	162	0	„
„ five	„	„	..	..	..	165	0	„

*Scale of pay for Constables*

						s.	d.	
On appointment	..	..	..	..	..	105	0	weekly
After two years from appointment	..	..	..	..	..	108	0	"
„ three	„	„	..	..	..	111	0	"
„ four	„	„	..	..	..	114	0	"
„ five	„	„	..	..	..	117	0	"
„ six	„	„	..	..	..	120	0	"
„ seven	„	„	..	..	..	123	0	"
„ eight	„	„	..	..	..	126	0	"
„ nine	„	„	..	..	..	129	9	"
„ ten	„	„	..	..	..	132	0	"

[1074]

2. At the end of Regulation 54 of the said Regulations there shall be added the following proviso :—

"Provided that a second special increment may be granted under this Regulation immediately on the grant of a special increment under Regulation 53 if the Chief Officer of Police is satisfied that the constable would by then have qualified for a second special increment if he had not ceased to serve as a constable in such circumstances that section 1 of the Police and Firemen (War Service) Act, 1939, applied to him." [1075]

3.—(1) In Regulation 56 of the said Regulations there shall be substituted for the figure "3s." the figure "4s."

(2) At the end of Regulation 56 of the said Regulations there shall be added the following proviso :—

"Provided that a constable may be granted an additional increment at any time after he has completed fifteen years' approved service, notwithstanding that he is not in receipt of the requisite number of special increments if—

- the Chief Officer of Police is satisfied that he would be in receipt of the requisite number of special increments if he had not ceased to serve as a constable in such circumstances that section 1 of the Police and Firemen (War Service) Act, 1939, applied to him, and
- he has passed the qualifying examination for promotion within two years of resuming service as a constable." [1076]

4. In Regulation 57 of the said Regulations there shall be substituted for the figure "3s." the figure "4s." [1077]

5.—(1) For paragraph (1) of Regulation 65 of the said Regulations there shall be substituted the following paragraph :—

"(1) A police authority shall either provide every member of a police force with a house or quarters free of rent and rates or pay him a rent allowance in lieu and, in the circumstances described in sub-paragraphs (a)

and (b) of paragraph (1) of Regulation 65A, shall pay the member in question a rent allowance notwithstanding that he may be provided with such quarters."

(2) In paragraph (2) of the said Regulation 65 at the beginning there shall be inserted the words "Subject to the provisions of Regulation 65A."

(3) For proviso (c) to paragraph (2) of Regulation 65 of the said Regulations there shall be substituted the following proviso :—

"(c) a married man whose wife is living apart from him in circumstances other than those described in sub-paragraph (c) of paragraph (1) of Regulation 65A shall be paid a rent allowance at the rate provided for a single man of his rank." [1078]

6. After Regulation 65 of the said Regulations there shall be inserted the following Regulations :—

"65A.—(1) This Regulation shall apply to a member of a police force who—

- (a) is a married man or a widower with a child or children to whom the police authority have decided to grant an allowance at the rate provided for a married man,
- (b) is not living with his family, and
- (c) satisfies the Chief Officer of Police that the only reason why he is not so living is that he is unable to find suitable accommodation for his family at a reasonable cost within a reasonable distance of his place of duty.

(2) Notwithstanding the provisions of Regulation 65 the amount of the rent allowance to be paid to a member of a police force to whom this Regulation applies shall be that which would be payable to him under paragraphs (1) and (2) of Regulation 65 if he were a member of the force of the police area in which his family are for the time being living and he were living with his family.

(3) A member of a police force to whom this Regulation applies shall be paid a supplementary allowance at the following rate :—

- (a) if he is provided by the police authority with quarters free of rent and rates, 17s. 6d. a week ;
- (b) if he is not so provided, 25s. 0d. a week.

(4) The supplementary allowance payable under paragraph (3) of this Regulation may be reduced or withdrawn by the police authority in respect of any period consisting of one or more complete weeks throughout which the member in question is absent from his usual place of duty and is either—

- (a) on leave of absence, or
- (b) in receipt of a subsistence and lodging allowance under Regulation 70.

(5) This Regulation shall cease to have effect on the thirty-first day of December, 1948.

65B.—(1) In the year commencing with the sixth day of April, 1947, and in each subsequent year, a member of a police force who has during the preceding year paid income tax in respect of a rent allowance or any compensatory grant mentioned in this paragraph paid or made to him in respect of his service in the force shall be paid a compensatory grant.

(2) The amount of the compensatory grant shall be equal to the amount by which the income tax in fact deducted during the preceding year according to the tax tables prepared or prescribed by the Commissioners of Inland Revenue from the member's emoluments in respect of his service in the force is increased by virtue of the inclusion in such emoluments of a rent allowance or any compensatory grant mentioned in this Regulation paid or made to him.

(3) *The compensatory grant may, except in the circumstances described in paragraph (4) of this Regulation, be paid by such instalments throughout the year in which it is payable as the police authority may determine.*

(4) *Where a member of a police force leaves the force or dies whilst serving in the force he or his personal representatives, as the case may be, shall be paid the whole of the compensatory grant due to the member during that year and, in addition, shall be paid a further compensatory grant of an amount which bears the same proportion to the compensatory grant payable during that year as the period during which he has served during that year bears to the period during which he has served in the force during the preceding year.*

(5) *For the purposes of this Regulation—*

(a) *the expression 'rent allowance' means any allowance payable under Regulation 65 ;*

(b) *the word 'year' means the year commencing on the sixth day of April and ending on the following fifth day of April ; and*

(c) *where a member of a police force has served more than once in the same force, references in this Regulation to service in the force shall be construed as references to his service therein since his last appointment thereto."* [1079]

7. For Regulations 70 and 71 of the said Regulations there shall be substituted the following Regulations :—

"70.—(1) *A member of a police force of or below the rank of superintendent who, being retained on duty beyond his normal period of duty or being engaged on duty away from his usual place of duty, necessarily incurs additional expense to obtain food or lodging, shall—*

(a) *if the period for which he is so retained or engaged exceeds one hour but does not exceed 5 hours, be paid a refreshment allowance ;*

(b) *if the period for which he is so retained or engaged exceeds 5 hours, be paid a subsistence allowance ;*

(c) *if the said expense includes expense of obtaining lodging, be paid a lodging allowance.*

(2) *Notwithstanding anything in the preceding paragraph a member of a police force of or below the rank of superintendent who satisfies the Chief Officer of Police that during his normal period of duty he was, although not away from his usual place of duty, unable by reason of the exigencies of duty to obtain his meals in his usual way and that he necessarily incurred additional expense for the purpose may be paid a refreshment allowance.*

(3) *The amount of the said allowances shall be according to the following scale :—*

<i>Description of Allowance</i>	<i>Superintendents</i>	<i>Inspectors</i>	<i>Sergeants and Constables</i>
<i>Refreshment Allowance—</i>			
(i) <i>for one meal .. ..</i>	3s. 6d.	3s. 6d.	2s. 6d.
(ii) <i>for two meals .. ..</i>	5s. 6d.	4s. 6d.	4s. 0d.
<i>Subsistence Allowance : Period of retention or engagement—</i>			
(i) <i>over 5 hours and not exceeding 8 hours ...</i>	5s. 0d.	4s. 6d.	4s. 0d.

<i>Description of Allowance</i>	<i>Superintendents</i>	<i>Inspectors</i>	<i>Sergeants and Constables</i>
<i>Subsistence Allowance : Period of retention or engagement—cont.</i>			
(ii) <i>over 8 hours and not exceeding 12 hours ..</i>	7s. 6d.	6s. 6d.	5s. 6d.
(iii) <i>over 12 hours and not exceeding 24 hours ..</i>	10s. 6d.	9s. 0d.	8s. 0d.
(iv) <i>over 24 hours—at the rate under (iii) above for each complete period of 24 hours retention or engagement, together with whichever is the appropriate amount under the preceding provisions of this scale for any excess over the aggregate of such complete periods.</i>			
<i>Lodging Allowance—</i>			
<i>For each night .. ..</i>	10s. 6d.	9s. 6d.	8s. 6d.

*Provided that—*

- (a) *if a lodging allowance is payable as well as a subsistence allowance in respect of a total period of retention or engagement of 16 hours or less, the subsistence allowance shall be of the amount appropriate to a retention or engagement for a period exceeding 8 hours and not exceeding 12 hours ;*
  - (b) *if the Chief Officer of Police is satisfied in any particular case that the amount of the allowances specified above is not sufficient to cover the actual expenses necessarily incurred, he may authorise payment of the difference ;*
  - (c) *if the Chief Officer of Police is satisfied in any particular case that the amount of the allowances specified above would be excessive having regard to the additional expenses necessarily incurred, he may direct that the amount of the allowance shall be reduced to such an amount as he determines, not being less than the amount of such expenses ;*
  - (d) *if a member of a police force is so retained or engaged for a period exceeding one week, he may, if the Chief Officer of Police is satisfied that the allowances specified above would be excessive, be granted in lieu thereof a weekly allowance at such lower rate as may be necessary to cover his reasonable expenses.*
- (4) *Where the place of duty of a member of a police force has been temporarily changed the expression in this Regulation 'usual place of duty' shall after such period from the date of change as the Chief Officer of Police may determine mean the temporary place of duty.*

71. *Where a member of a police force of or below the rank of inspector is required to do duty away from his usual place of duty he shall be given an advance to cover, as far as practicable, any expenses which he will probably incur."* [1080]

8. In paragraph (3) of Regulation 88 of the said Regulations the words "not being a constable on probation" shall be omitted. [1081]

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# THE POLICE (WOMEN) REGULATIONS OF NOVEMBER 6, 1946

S. R. & O., 1946, No. 1799

November 6, 1946.

I, the Right Honourable James Chuter Ede, one of His Majesty's Principal Secretaries of State, in pursuance of the powers conferred on me by section 4 of the Police Act, 1919, hereby make the following Regulations amending the Police (Women) Regulations :—

1. For Regulation 40 of the said Regulations there shall be substituted the following Regulation :—

“ 40. Subject to the provisions of Regulations 20A and 54 the scales of pay for sergeants and constables shall be as follows :—

## Scale of pay for sergeants

	s.	d.	
On promotion .. .. .	135	0	weekly
After one year from promotion .. .. .	137	6	„
„ two years „ „ .. .. .	140	0	„
„ three „ „ .. .. .	142	6	„
„ four „ „ .. .. .	145	0	„
„ five „ „ .. .. .	148	0	„

## Scale of pay for constables

	s.	d.	
On appointment .. .. .	94	0	weekly
After two years from appointment .. .. .	96	6	„
„ three „ „ .. .. .	99	0	„
„ four „ „ .. .. .	101	6	„
„ five „ „ .. .. .	104	0	„
„ six „ „ .. .. .	106	6	„
„ seven „ „ .. .. .	109	0	„
„ eight „ „ .. .. .	111	6	„
„ nine „ „ .. .. .	114	0	„
„ ten „ „ .. .. .	117	0	„

[1082]

2. At the end of Regulation 45 of the said Regulations there shall be added the following proviso :—

“ Provided that a second special increment may be granted under this Regulation immediately on the grant of a special increment under Regulation 44 if the Chief Officer of Police is satisfied that the constable would by then have qualified for a second special increment if she had not ceased to serve as a constable in such circumstances that section one of the Police and Firemen (War Service) Act, 1939, applied to her.” [1083]

3.—(1) In Regulations 47 of the said Regulations there shall be substituted for the figure “ 3s.” the figure “ 4s.”

(2) At the end of Regulation 47 of the said Regulations there shall be added the following proviso :—

“ Provided that a constable may be granted an additional increment at any time after she has completed fifteen years' approved service, notwithstanding that she is not in receipt of the requisite number of special increments, if—

(a) the Chief Officer of Police is satisfied that she would be in receipt



*of the requisite number of special increments if she had not ceased to serve as a constable in such circumstances that section one of the Police and Firemen (War Service) Act, 1939, applied to her, and*

*(b) she has passed the qualifying examination for promotion within two years of resuming service as a constable."* [1084]

4. In Regulation 48 of the said Regulations there shall be substituted for the figure "3s." the figure "4s." [1085]

5. After Regulation 56 of the said Regulations there shall be inserted the following Regulations :—

" 56A.—(1) *A police authority shall either provide every woman member of a police force with a house or quarters free of rent and rates or pay her a rent allowance in lieu :*

*Provided that this paragraph shall not apply to a woman member of a police force who—*

- (a) is married to a member of a police force and is living with him ; or*
- (b) is on unpaid maternity leave.*

*(2) The rent allowance shall be paid at the same rate as that provided under Regulation 65 of the Police Regulations for single men who are members of the same police force and of the same rank :*

*Provided that a police authority may, in special circumstances, authorise payment to an individual woman member of the police force of a rent allowance at the rate provided by the said Regulation 65 for married men of the same rank.*

56B.—(1) *In the year commencing with the sixth day of April, 1947, and in each subsequent year, a woman member of a police force who has during the preceding year paid income tax in respect of a rent allowance or any compensatory grant mentioned in this paragraph paid or made to her in respect of her service in the force shall be paid a compensatory grant.*

*(2) The amount of the compensatory grant shall be equal to the amount by which the income tax in fact deducted during the preceding year according to the tax tables prepared or prescribed by the Commissioners of Inland Revenue from the member's emoluments in respect of her service in the force is increased by virtue of the inclusion in such emoluments of a rent allowance or any compensatory grant mentioned in this Regulation paid or made to her.*

*(3) The compensatory grant may, except in the circumstances described in paragraph (4) of this Regulation, be paid by such instalments throughout the year in which it is payable as the police authority may determine.*

*(4) Where a woman member of a police force leaves the force or dies whilst serving in the force she or, as the case may be, her personal representatives shall be paid the whole of the compensatory grant due to the member during that year and, in addition, shall be paid a further compensatory grant of an amount which bears the same proportion to the compensatory grant payable during that year as the period during which she has served during that year bears to the period during which she has served in the force during the preceding year.*

*(5) For the purposes of this Regulation—*

- (a) the expression 'rent allowance' means any allowance payable under Regulation 56A ;*
- (b) the word 'year' means the year commencing on the sixth day of April and ending on the following fifth day of April ; and*
- (c) where a woman member of a police force has served more than once in the same force, references in this Regulation to service in*

*the force shall be construed as references to her service therein since her last appointment thereto."* [1086]

6. For Regulations 61 and 62 of the said Regulations there shall be substituted the following Regulations :—

"61.—(1) *A woman member of a police force of or below the rank of superintendent who, being retained on duty beyond her normal period of duty or being engaged on duty away from her usual place of duty, necessarily incurs additional expense to obtain food or lodging, shall—*

- (a) *if the period for which she is so retained or engaged exceeds one hour but does not exceed 5 hours, be paid a refreshment allowance;*
- (b) *if the period for which she is so retained or engaged exceeds 5 hours, be paid a subsistence allowance ;*
- (c) *if the said expense includes expense of obtaining lodging, be paid a lodging allowance.*

(2) *Notwithstanding anything in the preceding paragraph a woman member of a police force of or below the rank of superintendent who satisfies the Chief Officer of Police that during her normal period of duty she was, although not away from her usual place of duty, unable by reason of the exigencies of duty to obtain her meals in her usual way and that she necessarily incurred additional expense for the purpose, may be paid a refreshment allowance.*

(3) *The amount of the said allowances shall be according to the following scale :—*

<i>Description of Allowance</i>	<i>Superintendents</i>	<i>Inspectors</i>	<i>Sergeants and Constables</i>
<i>Refreshment Allowance—</i>			
<i>(i) for one meal .. ..</i>	3s. 6d.	3s. 0d.	2s. 6d.
<i>(ii) for two meals .. ..</i>	5s. 0d.	4s. 6d.	4s. 0d.
<i>Subsistence Allowance : Period of retention or engagement—</i>			
<i>(i) over 5 hours and not exceeding 8 hours ..</i>	5s. 0d.	4s. 6d.	4s. 0d.
<i>(ii) over 8 hours and not exceeding 12 hours</i>	7s. 6d.	6s. 6d.	5s. 6d.
<i>(iii) over 12 hours and not exceeding 24 hours</i>	10s. 6d.	9s. 0d.	8s. 0d.
<i>(iv) over 24 hours—at the rate under (iii) above for each complete period of 24 hours retention or engagement, together with whichever is the appropriate amount under the preceding provisions of this scale for any excess over the aggregate of such complete periods.</i>			
<i>Lodging Allowance—</i>			
<i>For each night .. ..</i>	10s. 6d.	9s. 6d.	8s. 6d.

*Provided that :*

- (a) *if a lodging allowance is payable as well as a subsistence allowance in respect of a total period of retention or engagement of sixteen hours or less, the subsistence allowance shall be of the amount appropriate to a retention or engagement for a period exceeding eight hours and not exceeding twelve hours ;*

- (b) if the Chief Officer of Police is satisfied in any particular case that the amount of the allowances specified above is not sufficient to cover the actual expenses necessarily incurred, he may authorise payment of the difference ;
  - (c) if the Chief Officer of Police is satisfied in any particular case that the amount of the allowances specified above would be excessive having regard to the additional expenses necessarily incurred, he may direct that the amount of the allowances shall be reduced to such an amount as he determines, not being less than the amount of such expenses ;
  - (d) if a woman member of a police force is so retained or engaged for a period exceeding one week, she may, if the Chief Officer of Police is satisfied that the allowances specified above would be excessive, be granted in lieu thereof a weekly allowance at such lower rate as may be necessary to cover her reasonable expenses.
- (4) Where the place of duty of a woman member of a police force has been temporarily changed, the expression in this Regulation 'usual place of duty' shall, after such period from the date of change as the Chief Officer of Police may determine, mean the temporary place of duty.

62. Where a woman member of a police force of or below the rank of inspector is required to do duty away from her usual place of duty she shall be given an advance to cover, as far as practicable, any expenses which she will probably incur." [1087]

7. In paragraph (3) of Regulation 79 of the said Regulations the words "not being a constable on probation" shall be omitted. [1088]

8. At the end of Regulation 81 of the said Regulations there shall be added the words "or unless she is already absent on unpaid maternity leave." [1089]

## THE POLICE WAR RESERVE RULES, 1946

S. R. & O., 1946, No. 1805

November 6, 1946

In pursuance of the power conferred upon me by Regulation 40Ac of the Defence (General) Regulations, 1939, as having effect by virtue of the Emergency Laws (Transitional Provisions) Act, 1946, I [i.e. the Secretary of State] hereby make the following Rules amending the Police War Reserve Rules, 1945 :—

1. For Rules 24, 25, 26, 27 and 28 of the said Rules there shall be substituted the following Rules :—

"24. Subject to the provisions of Rules 25, 26, 27 and 28 the pay, allowances and compensatory grants of a police war reservist shall be the same and subject to the same conditions as the pay, allowances and compensatory grants of a member of the police force to whom the Police Regulations apply.

25. A police war reservist shall not be paid the supplementary allowances provided for in Regulation 65A of the Police Regulations, but a police war reservist who is required to live away from his home shall, subject to any conditions prescribed in directions given by the Secretary of State, be paid an allowance in respect of his lodging expenses whilst so required of a weekly amount prescribed in directions so given and not exceeding 25s.

26. A police war reservist shall only be entitled to be paid a rent

allowance of an amount and subject to conditions prescribed in directions given by the Secretary of State, and the Secretary of State may prescribe different allowances and different conditions for different classes or descriptions of police war reservists.

27. The pay of a police war reservist during a period of such leave shall be reduced by the amount of any benefit for which he may have qualified under the National Health Insurance Acts, 1936 to 1941, by the amount of any payment which may be made to him in respect of the period of leave under any scheme made by the Minister of Pensions under the Personal Injuries (Emergency Provisions) Act, 1939, and by the amount of any weekly payment which he may receive in respect of that period under the Workmen's Compensation Acts, 1925 to 1943, by way of compensation for injury or sickness.

28. References in any provisions of the Police Regulations applied by these Rules to any other provisions of those Regulations which are so applied shall be construed as references to those provisions as so applied."

[1090]

2.—(1) These Rules may be cited as the Police War Reserve Rules, 1946.

(2) These Rules shall come into force on the sixth day of November, 1946.

[1091]

\* \* \* \* \*

## THE WOMEN'S AUXILIARY POLICE CORPS (NO. 2) RULES, 1946

*S. R. & O., 1946, No. 1806*

*November 6, 1946*

In pursuance of the power conferred upon me by Regulation 40AC of the Defence (General) Regulations, 1939, as having effect by virtue of the Emergency Laws (Transitional Provisions) Act, 1946, I [*i.e.* the Secretary of State] hereby make the following Rules amending the Women's Auxiliary Police Corps Rules, 1945 :—

1. For Rules 36, 37, 38 and 39 of the said Rules there shall be substituted the following Rule :—

" 36. A member of Class A shall be entitled to the same allowances and compensatory grants on the same conditions as a woman member of a police force to whom the Police (Women) Regulations apply and in addition shall be entitled to such other allowances of such an amount and under such conditions as the Secretary of State may direct." [1092]

2.—(1) These Rules may be cited as the Women's Auxiliary Police Corps (No. 2) Rules, 1946.

(2) These Rules shall come into force on the sixth day of November, 1946.

[1093]

\* \* \* \* \*

## THE POLICE REGULATIONS OF NOVEMBER 21, 1946

*S. R. & O., 1946, No. 1966*

*November 21, 1946*

I, the Right Honourable James Chuter Ede, one of His Majesty's Principal Secretaries of State, in pursuance of the powers conferred on me by section 4

of the Police Act, 1919, hereby make the following Regulation amending the Police Regulations :—

For paragraph (1) of Regulation 65 of the said Regulations there shall be substituted the following paragraph :—

“(1) *A police authority shall either provide every member of a police force with a house or quarters free of rent and rates or pay him a rent allowance in lieu and, in the circumstances described in sub-paragraphs (a), (b) and (c) of paragraph (1) of Regulation 65A, shall pay the member in question a rent allowance notwithstanding that he may be provided with such quarters.*”

[1094]

\* \* \* \* \*

### EXPLANATORY NOTE

*(This Note is not part of the Regulation, but is intended to indicate its general purport.)*

*This Regulation deals with the provision of free quarters for the police or rent allowance in lieu. The circumstances described in Regulation 65 (1) (a), (b) and (c) are those of a married man or widower with children in receipt of a married man's rent allowance who is not living with his family through inability to find accommodation for them.*

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## THE DISPLACED CHIEF CONSTABLES (COMPENSATION) REGULATIONS, 1946

S. R. & O., 1946, No. 1988

November 26, 1946

In pursuance of the power conferred on me by section 11 of the Police Act, 1946, I [*i.e.* the Secretary of State] hereby make the following Regulations :—

1. Subject to the succeeding provisions of these Regulations, each of the following persons, namely, a displaced chief constable and, in the event of his death, his wife, children and dependent relatives shall be entitled to the ordinary pension, gratuity or allowance to which that person would have been entitled under the Police Pensions Act, 1921 (hereinafter in these Regulations referred to as “the Act of 1921”), if, at the time of retirement, the displaced chief constable had retired from the force in which he was then serving on a medical certificate that he was permanently incapacitated for the performance of his duty by infirmity of mind or body occasioned otherwise than by an injury received in the execution of his duty, and the Act of 1921, subject to the exceptions and modifications hereafter in these Regulations contained, shall have effect accordingly. [1095]

2. For the purposes of the following provisions of the Act of 1921, namely, paragraph (b) of subsection (1) of section 2, paragraph (a) of section 3, Scale No. 2 set out in the Table subjoined to Part I of the First Schedule and paragraphs 6, 8 and 11 of the said Schedule, there shall be added to the period of approved service the shortest of the three following periods, namely, (i) ten years, (ii) the period between the time of retirement and the date on which the displaced chief constable would, if he had continued to serve in the force in which he was serving immediately before the time of retirement, have completed thirty years' approved service, and (iii) the period between the time of retirement and the date on which the displaced chief constable would, if he were to live so long, reach the date of compulsory retirement. [1096]

3. In the case of a chief constable serving in another capacity his pay for the purposes of paragraph 6 of the First Schedule to the Act of 1921 and his annual pay for the purposes of paragraph 20 of the said Schedule shall be deemed to be of such an amount as the Secretary of State may direct being the amount which the Secretary of State is satisfied the displaced chief constable would have been receiving if, at the time of retirement, he had been chief constable of his former force. [1097]

4.—(1) The pension payable to a displaced chief constable for the period ending on the date of compulsory retirement shall be increased by the difference between the pension that is payable to him under the foregoing provisions of these Regulations and the pension which would be payable to him if to his annual pay for the purposes of paragraph 20 of the First Schedule to the Act of 1921 there were added the sum specified in paragraph (2) of this Regulation.

(2) The sum referred to in paragraph (1) above—

(a) in the case of a chief constable serving in another capacity who, immediately before he ceased to be chief constable of his former force—

(i) was in receipt of a rent allowance is such a sum as the Secretary of State may direct being the annual amount of the rent allowance which the Secretary of State is satisfied the displaced chief constable would have been receiving if, at the time of retirement, he had been chief constable of his former force ;

(ii) was provided with a house or quarters free of rent and rates is such a sum as the Secretary of State may direct being the annual worth of the house or quarters with which the Secretary of State is satisfied he would have been provided if, at the time of retirement, he had been chief constable of his former force ;

(b) in the case of any other displaced chief constable who, at the time of retirement—

(i) was in receipt of a rent allowance is a sum equal to the annual amount of that rent allowance ;

(ii) was provided with a house or quarters free of rent and rates is the sum which the police authority of the force of which he was chief constable determine, with the approval of the Secretary of State, to be the annual worth of the house or quarters. [1098]

5.—(1) Sections 6, 12 and 13 of the Act of 1921 and proviso (i) to subparagraph (a) of paragraph 20 of the First Schedule to that Act shall not apply.

(2) Subsection (2) of section 8 of the Act of 1921 shall have effect as if for the reference therein to the police authority in whose service a member of the police force was at the time of his death or retirement there was substituted a reference to the police authority liable to pay the pension, gratuity or allowance under these Regulations and as if for the reference therein to the other police authority or authorities there was substituted a reference to the police authority of any forces, service in which the displaced chief constable was entitled under the said section 8 to reckon immediately after he became a member, in the case of a chief constable serving in another capacity, of his former force and, in the case of any other displaced chief constable, of the force from which under subsection (3) of section 11 of the Act he is deemed to have retired.

(3) For the purposes of section 9 of the Act of 1921 a displaced chief constable who becomes entitled to a pension under these Regulations shall be

deemed to have retired from the force with a pension notwithstanding that the date on which he is deemed to have retired precedes the date on which he becomes entitled to the said pension.

(4) Paragraph 12 of the First Schedule to the Act of 1921 shall have effect as if in addition to the amount of the rateable deductions that have been made from the pay of a displaced chief constable there had been made the rateable deductions that would have been made during whichever of the added periods of approved service specified in Regulation 2 above is relevant to his case if, during that period, he had been a member of a police force in receipt of pay of the amount, in the case of a chief constable serving in another capacity, directed by the Secretary of State under Regulation 3 above and, in any other case, of the amount of which he was in receipt at the time of retirement.

(5) A pension or gratuity payable under these Regulations shall not be deemed to be a pension or gratuity for the purpose of paragraph 13 of the First Schedule to the Act of 1921. [1099]

6.—(1) In these Regulations the following expressions have the meanings hereby respectively assigned to them, that is to say—

“the Act” means the Police Act, 1946 ;

“chief constable serving in another capacity” means a person in relation to whom paragraph (c) of subsection (3) of section 11 of the Act has effect by virtue of subsection (6) of section 13 of the Act and a person to whom paragraph (c) of subsection (3) of section 11 thereof applies by virtue of subsection (3) or (4) of section 14 thereof ;

“date of compulsory retirement” means—

(i) in the case of a displaced chief constable who was serving as a member of a police force at the commencement of the Act of 1921, the later of the two following dates, namely, the date on which, if the displaced chief constable were to continue to serve in the force in which he was serving immediately before the time of retirement, he would complete the period of service prescribed by the pension scale, which was applicable to his case immediately before he ceased to serve in the last-mentioned force, as necessary to qualify him to retire without a medical certificate and receive a pension for life at a rate equal to two-thirds of his pay at the time he would so have been qualified to retire or the date on which he would, if he were to live so long, attain the age of 65 years, and

(ii) in the case of any other displaced chief constable, the date on which he would, if he were to live so long, attain the age of 65 years ;

“displaced chief constable” means a chief constable referred to in paragraph (c) of subsection (3) of section 11 of the Act and a chief constable serving in another capacity ;

“his former force” in relation to a chief constable serving in another capacity means—

(i) in the case of a person in relation to whom the provisions of the Act with respect to chief constables have effect by virtue of subsection (6) of section 13 of the Act, the force of which he was chief constable immediately before the amalgamation order referred to in that subsection came into force ;

(ii) in the case of a person to whom subsection (3) of section 11 of the Act applies by virtue of subsection (3) of section 14 of the Act, the force of which he was chief constable immediately before he engaged for a period of overseas service ;

(iii) in the case of a person to whom subsection (3) of section 11 of the



Act applies by virtue of subsection (4) of section 14 of the Act, the force of which he was chief constable immediately before the amalgamation order referred to in the last-mentioned section came into force ;

“ time of retirement ” means the time when a displaced chief constable is deemed, under subsection (3) of section 11 of the Act or, as the case may be, under that subsection as applied by paragraph (a) of subsection (3) of section 14 of the Act, to have retired from his police force.

(2) For the purposes of these Regulations a person to whom subsection (3) of section 11 of the Act applies by virtue of subsection (3) or (4) of section 14 thereof shall be deemed to be serving in a force at the time of retirement. [1100]

7.—(1) These Regulations may be cited as the Displaced Chief Constables (Compensation) Regulations, 1946.

(2) These Regulations shall come into operation on the first day of December, 1946. [1101]

\* \* \* \* \*

### EXPLANATORY NOTE

*(This Note is not part of the Regulations, but is intended to indicate their general purport.)*

*These Regulations deal with the pension rights of chief constables and of the dependants of chief constables of police forces merged under the Police Act, 1946.*

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## PUBLIC ASSISTANCE

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### ORDERS, CIRCULARS AND MEMORANDA

#### THE PUBLIC ASSISTANCE (AMENDMENT) ORDER, 1946

*S. R. & O., 1946, No. 1624*

*October 4, 1946*

Whereas by the Public Assistance Order, 1930, made by the Minister of Health under the Poor Law Act, 1930, as amended by the Public Assistance (Casual Poor) Order, 1931, the Public Assistance (Casual Poor) Amendment Order, 1939, the Public Assistance (Amendment) Order, 1939, the Public Assistance (Amendment) Order, 1940, the Public Assistance (Amendment) Order (No. 2), 1940, the Public Assistance (Amendment) Order, 1941, and the Public Assistance (Amendment) Order, 1945, provision is made in relation to the discharge of the poor law functions of councils of counties and county boroughs ;

And whereas it is expedient that the Public Assistance Order, 1930, as amended as aforesaid should be further amended as hereinafter appearing :

Now therefore the Minister of Health in exercise of his powers under the Poor Law Act, 1930, and of all other powers enabling him in that behalf, hereby makes the following order :—

1. This order may be cited as the Public Assistance (Amendment) Order, 1946, and the Public Assistance Orders, 1930 to 1940, the Public Assistance (Amendment) Order, 1945, and this order may be cited together as the Public Assistance Orders, 1930 to 1946. [1102]

2. The Public Assistance Order, 1930, as amended as set out in the first recital hereto shall have effect as though—

- (i) at the end of sub-paragraph (b) of paragraph (1) of article 23 thereof, there were added “ who were in receipt of such a supplementary pension on the 30th day of September, 1946 ; or ” ; and
  - (ii) at the end of sub-paragraph (c) of paragraph (1) of article 23 thereof, there were added “ or whose needs were taken into account in a determination in force on the 30th day of September, 1946 ; ” .
- [1103]

\* \* \* \* \*

## THE RELIEF REGULATION (AMENDMENT) ORDER, 1946

*S. R. & O., 1946, No. 1627*

*October 4, 1946*

Whereas by the Relief Regulation Order, 1930, made by the Minister of Health under the Poor Law Act, 1930, as partly rescinded on 19th December, 1931, and amended by the Relief Regulation (Amendment) Order, 1932, the Relief Regulation (Amendment) Order, 1940, and the Relief Regulation (Amendment) Order, (No. 2), 1940, provision is made in relation to the discharge of the poor law functions of councils of counties and county boroughs ;

And whereas it is expedient that the Relief Regulation Order, 1930, as partly rescinded and amended as aforesaid should be further amended as hereinafter appearing :

Now therefore the Minister of Health in exercise of his powers under the Poor Law Act, 1930, and of all other powers enabling him in that behalf, hereby makes the following order :—

1. This order may be cited as the Relief Regulation (Amendment) Order, 1946, and the Relief Regulation Orders, 1930 to 1940, and this order may be cited together as the Relief Regulation Orders, 1930 to 1946. [1104]

2. The Relief Regulation Order, 1930, as partly rescinded and amended as set out in the first recital hereto shall have effect as though—

- (i) at the end of sub-paragraph (b) of the final paragraph of article 16 thereof, there were added “ who was in receipt of such a supplementary pension on the 30th day of September, 1946 ; or ” ; and
  - (ii) at the end of sub-paragraph (c) of the final paragraph of article 16 thereof, there were added “ or whose needs were taken into account in a determination in force on the 30th day of September, 1946.”
- [1105]

\* \* \* \* \*

## PUBLIC HEALTH

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## CASES

*Housing—Compulsory purchase order—“ Park, garden or pleasure ground ”*—“ Required for the amenity or convenience of any house ”—Land must be appurtenant to house—*Housing Act, 1936 (c. 51), ss. 74, 75—Housing (Temporary Accommodation) Act, 1944 (c. 36), s. 6.*

*Housing—Authorisation by Minister of Health—Equivalent to compulsory purchase order—Housing Act, 1936 (c. 51), s. 74—Housing (Temporary Accommodation) Act, 1944, (c. 36), s. 6.*

*Crown Practice—Certiorari—Prohibition—Substituted procedure under principal Act—Different machinery under subsequent Act—Whether writs lie—Housing Act, 1936 (c. 51), s. 74—Housing (Temporary Accommodation) Act, 1944 (c. 36), s. 6.*

The applicants owned certain land used as a sports ground and kept by them for the benefit of their employees. The Minister of Health, purporting to act under the Housing (Temporary Accommodation) Act, 1944, s. 6, gave an authorisation to the local authority to enter and take possession of the land for the purposes of the Housing Act, 1936, Pt. V. The applicants moved for an order of certiorari and an order of prohibition :—

*Held:* (i) the authorisation which was granted under the Housing (Temporary Accommodation) Act, 1944, s. 6, was equivalent to a compulsory purchase order under the Housing Act, 1936, s. 74.

(ii) the machinery under the 1936 and the 1944 Acts being different, the procedure prescribed, in Sched. II, para. 2, of the 1936 Act, for testing the validity of an order by an application to the High Court as distinct from certiorari was not applicable in this case; consequently an objection that certiorari and prohibition had been taken away and another procedure substituted was not well founded.

(iii) on a true construction of s. 75 of the 1936 Act, the “ park, garden or pleasure ground ” must form part of land which was appurtenant to a house, the amenities of which the sections intended to preserve; the sports ground in question was not land which a local authority was forbidden to acquire in part; therefore, the authorisation was good and the motions must be refused.—*R. v. MINISTER OF HEALTH, Ex parte WATERLOW & SONS, LTD., [1946] K. B. 485; [1946] 2 All E. R. 189; 115 L. J. K. B. 376; 175 L. T. 424; 110 J. P. 319; 62 T. L. R. 453; 90 Sol. Jo. 431; 44 L. G. R. 257, D. C.*

[1106]

## PUBLIC SERVICE VEHICLES

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## ORDERS, CIRCULARS AND MEMORANDA

### THE EMERGENCY POWERS (DEFENCE) ROAD VEHICLES AND DRIVERS (AMENDMENT) ORDER, 1946

*S. R. & O., 1946, No. 123*

*January 22, 1946*

Whereas in exercise of the powers conferred on him, *inter alia*, by Regulation 72 of the Defence (General) Regulations, 1939, the Minister of War Transport made the Emergency Powers (Defence) Road Vehicles and Drivers Order, 1943 (hereinafter called "the Principal Order") :

And whereas it is expedient that Article 20 of the Principal Order (which modifies the limitation imposed by section 19 of the Road Traffic Act, 1930, as amended by section 31 of the Road and Rail Traffic Act, 1933, of the time for which the drivers of certain vehicles may remain continuously on duty) should be revoked :

Now, therefore, the Minister [*i.e.* the Minister of War Transport], in exercise of the powers aforesaid and of all other powers enabling him in that behalf, hereby makes the following Order :—

1. Article 20 of the Principal Order is hereby revoked. [1107]

2. This Order shall come into force on the twenty-fourth day of February, 1946, and may be cited as "The Emergency Powers (Defence) Road Vehicles and Drivers (Amendment) Order, 1946." [1108]

\* \* \* \* \*

### THE PUBLIC SERVICE VEHICLES (CONDUCT OF DRIVERS, CONDUCTORS AND PASSENGERS) (AMENDMENT) REGULATIONS, 1946

*S. R. & O., 1946, No. 357*

*March 15, 1946*

Whereas by section 84 of the Road Traffic Act, 1930, it is provided that the Minister of Transport may make Regulations as to the conduct of passengers in public service vehicles :

And whereas the Minister of Transport, in exercise, *inter alia*, of the powers so conferred on him, made The Public Service Vehicles (Conduct of Drivers, Conductors and Passengers) Regulations, 1936 (hereinafter referred to as "The Principal Regulations") :

And whereas by virtue of the Ministers of the Crown (Minister of War Transport) Order, 1941, the said powers are now vested in the Minister of War Transport :

And whereas it is expedient, with a view to making further provision in regard to the prevention of fraud by passengers, that the Principal Regulations should be amended in manner hereinafter appearing :

Now, therefore, the Minister of War Transport, in exercise of the powers conferred by section 84 of the Road Traffic Act, 1930, and now vested in him as aforesaid, and of all other powers enabling him in that behalf, hereby makes the following Regulations :—

1. These Regulations may be cited as "The Public Service Vehicles

(Conduct of Drivers, Conductors and Passengers) (Amendment) Regulations, 1946," and shall come into force on the first day of April, 1946. [1109]

2. The Principal Regulations shall have effect as though the following paragraph were substituted for paragraph (a) of Regulation 11 thereof :—

"(a) No passenger on a stage or express carriage shall use or attempt to use :—

- (i) any ticket which has been altered or defaced, with intent to avoid payment of a fare ; or
- (ii) any ticket which has been issued to another person if such ticket bears thereon an indication that it is not transferable ; or
- (iii) any period or season ticket which has expired, with intent to avoid payment of a fare." [1110]

3. The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [1111]

\* \* \* \* \*

## THE STANDING PASSENGERS (AMENDMENT) ORDER, 1946

S. R. & O., 1946, No. 695

May 16, 1946

The Minister of Transport, in exercise of his powers under Regulation 70 of the Defence (General) Regulations, 1939, as having effect by virtue of the Supplies and Services (Transitional Powers) Act, 1945, and of all other powers enabling him in that behalf, hereby makes the following Order :—

1. Paragraph (1) and sub-paragraph (ii) of paragraph (2) of Article 2 and Article 3 of the Standing Passengers (No. 2) Order, 1941, (which provides that public service vehicles in certain circumstances may carry standing passengers in excess of the number permitted by Regulation 15 of the Public Service Vehicles (Equipment and Use) Regulations, 1941) are hereby revoked. [1112]

2. This Order shall come into force on the 27th day of May, 1946, and may be cited as "The Standing Passengers (Amendment) Order, 1946." [1113]

\* \* \* \* \*

*Note as to S. R. & O., 1946, No. 695.—The effect of this Order is that, except in respect of single-decked public service vehicles specially constructed or adapted for the purpose of carrying standing passengers (which continue to be dealt with by the Standing Passengers (No. 2) Order, 1941), the position as to standing passengers in public service vehicles is now governed by Regulation 15 of the Public Service Vehicles (Equipment and Use) Regulations, 1941.*

## THE STANDING PASSENGERS (REVOCATION) ORDER, 1946

S. R. & O., 1946, No. 696

May 16, 1946

The Minister of Transport, in exercise of his powers under Regulation 70 of the Defence (General) Regulations, 1939, as having effect by virtue of the Supplies and Services (Transitional Powers) Act, 1945, and of all other powers enabling him in that behalf, hereby makes the following Order :—

1. The Standing Passengers (No. 3) Order, 1941, and the Standing Passengers (Amendment) Order, 1942, (which provide that trolley vehicles

may under certain conditions carry standing passengers notwithstanding anything in any enactment, order, byelaw or regulation to the contrary) are hereby revoked. [1114]

2. This Order shall come into force on the 27th day of May, 1946, and may be cited as "The Standing Passengers (Revocation) Order, 1946." [1115]

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## THE PUBLIC SERVICE VEHICLES (CONDITIONS OF FITNESS) (AMENDMENT) REGULATIONS, 1946

*S. R. & O., 1946, No. 940*

*June 26, 1946*

Whereas in exercise of the powers conferred upon him by section 68 of the Road Traffic Act, 1930, the Minister of Transport (hereinafter called "the Minister") made The Public Service Vehicles (Conditions of Fitness) Regulations, 1941 (hereinafter called "the Principal Regulations"):

And whereas it is expedient that the provisions of Regulation 5 of the Principal Regulations (which prescribes the maximum height of public service vehicles) should be modified, and that Regulation 6 of the Principal Regulations (which prescribes the maximum laden weight of public service vehicles) should be revoked:

Now, therefore, in exercise of the powers aforesaid and of all other powers enabling him in that behalf the Minister hereby makes the following Regulations:—

1. These Regulations may be cited as "The Public Service Vehicles (Conditions of Fitness) (Amendment) Regulations, 1946," and shall come into force on the 1st day of July, 1946. [1116]

2.—(1) The Principal Regulations shall have effect as though the following Regulation were substituted for Regulation 5 thereof:—

"5. No vehicle shall exceed 15 ft. in height."

(2) Regulation 6 of the Principal Regulations is hereby revoked. [1117]

3. The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [1118]

\* \* \* \* \*

*Note as to S. R. & O., 1946, No. 940.—Regulation 64A of the Motor Vehicles (Construction and Use) Regulations, 1941 (S. R. & O., 1941, No. 398)\*, as amended by the Motor Vehicles (Construction and Use) (Amendment) (No. 3) Regulations, 1946 (S. R. & O., 1946, No. 939)\*, now prescribes the maximum laden weight of public service vehicles, and Regulation 6 of the Public Service Vehicles (Conditions of Fitness) Regulations, 1941, is accordingly revoked.*

## THE EMERGENCY POWERS (DEFENCE) ROAD VEHICLES AND DRIVERS (AMENDMENT) (NO. 2) ORDER, 1946

*S. R. & O., 1946, No. 1077*

*July 10, 1946*

The Minister of Transport, in exercise of the powers conferred on him by Regulations 72 and 87 of the Defence (General) Regulations, 1939, as having

\* See note to S. R. & O., 1946, No. 402, p. 457, *post*.

effect by virtue of the Supplies and Services (Transitional Powers) Act, 1945, and of all other powers enabling him in that behalf, hereby makes the following Order :—

1. The Emergency Powers (Defence) Road Vehicles and Drivers Order, 1943, as amended by the Emergency Powers (Defence) Road Vehicles and Drivers (Amendment) Order, 1944, the Emergency Powers (Defence) Road Vehicles and Drivers (Amendment) Order, 1945, and the Emergency Powers (Defence) Road Vehicles and Drivers (Amendment) (No. 2) Order, 1945, shall have effect as though :—

- (1) the date “31st July, 1946,” and the date “31st July, 1947,” were respectively substituted for the date “31st July, 1945,” and the date “31st July, 1946,” wherever either of them occurs in paragraphs 2, 8, 14 and 15 thereof ;
- (2) the date “30th November, 1946,” were substituted for the date “30th November, 1945,” in sub-paragraph (c) of paragraph 13 thereof ;
- (3) the following paragraph was added thereto :—

“20. Every authorisation granted in lieu of a public service vehicle licence or a carrier's licence shall cease to have effect as regards any vehicle comprised in the authorisation on the date on which a public service vehicle licence or a carrier's licence, as the case may be, comes into force in respect of that vehicle.” [1119]

2. This Order shall come into force on the 31st day of July, 1946, and may be cited as “The Emergency Powers (Defence) Road Vehicles and Drivers (Amendment) (No. 2) Order, 1946.” [1120]

\* \* \* \* \*

### EXPLANATORY NOTE

*This Note is not part of the Order, but is intended to indicate its general purport.*

*Note as to S. R. & O., 1946, No. 1077.—This Order extends for 12 months from the date when it would otherwise have expired any authorisation in force on the 31st July, 1945, to*

- (i) *act as driver or conductor of a public service vehicle ;*
- (ii) *act as driver or conductor of a tram, trolley vehicle or hackney carriage in the metropolitan police district ;*
- (iii) *use a public service vehicle ;*
- (iv) *operate a road passenger service under a permit ;*
- (v) *use a goods vehicle under A, B or C carrier's licence or permit ;*

*provides that a goods vehicle, notwithstanding any conditions attached to its licence or permit, may be used in connection with this year's harvest ;*

*and provides further that any authorisation granted in lieu of a public service vehicle licence or a carrier's licence as regards any vehicle shall cease to have effect on the coming into force of a corresponding licence in respect of that vehicle.*

## THE EMERGENCY POWERS (DEFENCE) ROAD VEHICLES AND DRIVERS (AMENDMENT) (NO. 3) ORDER, 1946

S. R. & O., 1946, No. 1347

August 8, 1946

The Minister of Transport, in exercise of the powers conferred on him by Regulation 72 of the Defence (General) Regulations, 1939, as having effect



by virtue of the Supplies and Services (Transitional Powers) Act, 1945, and of all other powers enabling him in that behalf, hereby makes the following Order :—

1. Sub-paragraph (b) of paragraph 13 of the Emergency Powers (Defence) Road Vehicles and Drivers Order, 1943, as amended by the Emergency Powers (Defence) Road Vehicles and Drivers (Amendment) Order, 1945, is hereby revoked. [1121]

2. This Order shall come into force on the 17th day of August, 1946, and may be cited as “The Emergency Powers (Defence) Road Vehicles and Drivers (Amendment) (No. 3) Order, 1946.” [1122]

\* \* \* \* \*

### EXPLANATORY NOTE

*(This Note is not part of the Order, but is intended to indicate its general purport.)*

*The effect of this Order is to withdraw the concession whereby the holder of a carrier's licence or a defence permit issued in lieu of such licence, if he is also the holder of a consignment note issued on the Ministry of Transport Form RH/M/2C by an Area Road Haulage Officer or a Unit Controller, is enabled notwithstanding any conditions attached to such licence or permit to carry goods for hire or reward.*

## THE PUBLIC SERVICE VEHICLES (CONDITIONS OF FITNESS) (AMENDMENT) (NO. 2) REGULATIONS, 1946

S. R. & O., 1946, No. 1904

November 13, 1946

Whereas in exercise of the powers conferred upon him by section 68 of the Road Traffic Act, 1930, the Minister of Transport (hereinafter called “the Minister”) made the Public Service Vehicles (Conditions of Fitness) Regulations, 1941 (hereinafter called “the Principal Regulations”):

And whereas it is expedient that Regulation 36 of the Principal Regulations (which prescribes the height of gangways on public service vehicles) should be modified in manner hereinafter appearing:

Now, therefore, the Minister in exercise of the powers aforesaid, and of all other powers enabling him in that behalf, hereby makes the following Regulations :—

1. These Regulations may be cited as “The Public Service Vehicles (Conditions of Fitness) (Amendment) (No. 2) Regulations, 1946,” and shall come into force forthwith. [1123]

2. Regulation 36 of the Principal Regulations shall have effect as though :—

(1) the following proviso were added at the end of sub-paragraph (ii) of paragraph (1) thereof :—

“provided that where the gangway is on the right or offside of the vehicle, it shall be a sufficient compliance with the requirements of this Regulation if the clear height of 5 feet 8 inches aforesaid extends from a point 1 foot 6 inches behind the front edge of the foremost passenger seat to the front edge of the rearmost passenger seat served by that gangway”;

(2) the following paragraph were added thereto :—

“(3) In the case of the top deck of a double-decked vehicle registered for the first time on or after the 1st January, 1947, no part of any gangway shall project into the compartment or other space provided for the accommodation of the driver.” [1124]

3. The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [1125]

\* \* \* \* \*

## THE PUBLIC SERVICE VEHICLES (CONDITIONS OF FITNESS) (AMENDMENT) (NO. 3) REGULATIONS, 1946

*S. R. & O., 1946, No. 2167*

*December 19, 1946*

Whereas in exercise of the powers conferred upon him by Section 68 of the Road Traffic Act, 1930, the Minister of Transport (hereinafter called “the Minister”) made the Public Service Vehicles (Conditions of Fitness) Regulations, 1941 (hereinafter called “the Principal Regulations”):

And whereas it is expedient that Regulation 4 of the Principal Regulations (which restricts the overall length of four-wheeled double-decked vehicles) should be modified to permit of an increase in the overall length of certain vehicles of this class :

Now, therefore, the Minister in exercise of the powers aforesaid and of all other powers enabling him in that behalf, hereby makes the following Regulations :—

1. These Regulations may be cited as “The Public Service Vehicles (Conditions of Fitness) (Amendment) (No. 3) Regulations, 1946”, and shall come into force forthwith. [1126]

2. Regulation 4 of the Principal Regulations shall have effect as though the following proviso were added thereto :—

“provided that in the case of any such vehicle registered after 1st June, 1942, and before 1st May, 1947, the aforesaid length of 26 feet may be exceeded by 9 inches”. [1127]

3. The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [1128]

\* \* \* \* \*

## RATES AND RATING

STATUTES :—	PAGE	CASES :—	PAGE
Railways (Valuation for Rating) Act, 1946 — — —	446	Croydon Gas Co. v. Croydon County Borough Rating Authority, [1946] 1 All E. R. 424 — —	452
ORDERS, CIRCULARS AND MEMORANDA :—		Bomford v. South Worcestershire Area Assessment Committee, [1946] 2 All E. R. 80 — —	453
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## STATUTES

## RAILWAYS (VALUATION FOR RATING) ACT, 1946

(9 &amp; 10 Geo. 6, c. 61)

## PRELIMINARY NOTE

The principal Act dealing with the valuation of railway hereditaments for rating purposes is the Railways (Valuation for Rating) Act, 1930 (23 Halsbury's Statutes 455), which lays down a national system of valuation in place of the previously existing system which rested on a parochial basis.

Hereditaments of railways operating in England only are valued by the Railway Assessment Authority, and those in Scotland by the Assessor of Railways and Canals, while an Anglo-Scottish Railways Assessment Committee, consisting of the Chairman of the Railway Assessment Authority, a member appointed by that authority and the Assessor of Railways and Canals, is charged with the task of ascertaining the net receipts of railways carried on in both countries in so far as those receipts arise from railway workings or are attributable solely to hereditaments in England or solely to hereditaments in Scotland and of apportioning those net receipts between England and Scotland.

The Act lays down the following steps in the process of valuation :—

- (a) Ascertainment of the average net annual receipts of each individual company.
- (b) Division of these net receipts between a hypothetical landlord and tenant in order to arrive at the rent at which the hereditaments occupied by the company might be expected to be let as a whole, such rent to be deemed for the purpose of the Act to be the net annual value of the company's undertaking as a whole.
- (c) Apportionment of the net annual value among the separate hereditaments in the various rating areas.
- (d) Calculations of the rateable value of each separate hereditament from the net annual value.

A valuation roll is to be prepared every five years showing the net annual and rateable values of every railway hereditament.

For the purpose of the above scheme of valuation the average net receipts of a company are taken over the first five years of the six accounting years preceding the year in which the roll is to come into force. The valuation roll for the fourth quinquennial period 1946–51 is, therefore, to be based on the net receipts of the accounting years 1940–44. This fact, however, raises a difficulty in the operation of the valuation scheme, since, during these years, the railways operated under government control, the normal clearing house arrangements between the companies were largely suspended, and no detailed records of the receipts of individual companies were kept.

During this period receipts were pooled, and, out of average net annual receipts of approximately £79,000,000, the Government paid the railways, by agreement, the sum of £43,000,000. It was therefore impossible for the Railway Assessment Authority accurately to determine the average net annual receipts of each individual company, which is the first stage in their work of valuation. Again, the abnormally high earnings of the companies during the war years would obviously not continue in the post-war years, and it would, therefore, be inequitable to base valuations which were to operate for those latter years on the profits of the war years. The initial stage of the normal valuation process being inapplicable, it became necessary for the legislature to lay down a net annual value for each company as a basis for the further work of the Railway Assessment Authority, namely, the apportionment of those values and the determination of rateable values.

The net average receipts have been taken as being £43,000,000, namely, the amount which the companies actually received, though the average earnings were approximately £79,000,000. This figure was divided between the railway companies in proportions which were accepted by the companies and the local authorities. A further step was then required, namely, to ascertain the net annual value of each

undertaking, since it was not possible to calculate from the available figures the rent of the hypothetical tenant.

The following quotation from the speech of the Parliamentary Secretary to the Ministry of Health, in moving the Second Reading of the Bill, indicates the manner in which the Government arrived at the net annual values of the various companies :—

“ The lines upon which we worked this were roughly these : It was found that the proportion in which the £43 million had been divided between the undertakings in 1940–44 represented an increase of 12·7 per cent. on the net receipts for each of the undertakings actually ascertained for the years 1935–1939 that formed the basis of the valuation roll of 1941–46. We, therefore, thought that it would be appropriate to take the annual value of each railway for 1941–46, the current roll, and increase that suitably by a common percentage in order to give figures for the valuation roll for 1946–51. These figures were worked out in discussion with the local authority associations, which consulted the railway companies on the matter, and the resultant figures were set out in Part I and Part II of the First Schedule of this Bill. They represent an increase of 14·1 per cent. over the figures of the previous period.” (See 422 H. of C. Official Report 2306.)

Certain amendments, specified in the Second Schedule, have been made to the principal Act, consequential upon the above provisions. S. 2 makes a small amendment to s. 12 of the 1930 Act (23 Halsbury's Statutes 472), s. 3 provides for the superannuation of certain members of the staff of the Railway Assessment Authority, and s. 4 applies the provisions of the Act, with modifications, to the London Passenger Transport Board. [1129]

*An Act to amend the Railways (Valuation for Rating) Act, 1930.* [1130]  
[26th July, 1946.]

1. **Special provisions as to fourth quinquennial period.**—(1) For the purposes of the railway valuation roll for the fourth quinquennial period, the net annual value of the company's undertaking as a whole or, as the case may be, the net annual value of the company's undertaking as a whole, in so far as it is carried on in England, shall, in the case of each railway company, be taken to be the sum specified in relation to that company in Part I of the First Schedule to this Act, and the apportionment scheme made and approved under section thirteen of the Railways (Valuation for Rating) Act, 1930 (in this Act referred to as “ the principal Act ”), shall, for the purposes of the railway valuation roll for the said period, have effect subject to such modifications, if any, as may be specified in an order of the Minister. [1131]

(2) The cumulo yearly rent or value of a railway company's undertaking so far as carried on in Scotland shall for the fourth quinquennial period be taken to be in the case of each railway company the sum specified in relation to that company in Part II of the First Schedule to this Act, and that sum shall, save as provided in subsection (3) of section twenty-two of the principal Act, be entered in the valuation roll for each of the years of that period, and shall be the cumulo yearly rent or value within the meaning of the Lands Valuation (Scotland) Acts of the lands and heritages in Scotland belonging to or leased by the company and forming part of its undertaking. [1132]

(3) Any apportionment of the expenses of the Joint Authority for periods of account ending after the passing of this Act, and before an apportionment of the net receipts of the railway companies carrying on their undertakings in England and in Scotland is made by the Joint Authority for the purposes of the railway valuation roll for the fifth quinquennial period, shall be made as if the average net receipts of the railway companies specified in Part III of the First Schedule to this Act had been ascertained by the Joint Authority under paragraph (i) of subsection (1) of section five of the principal Act and stood apportioned in the manner set out in that Part of that Schedule. [1133]

(4) The provisions of the principal Act specified in the Second Schedule to this Act shall, in so far as they relate to the railway valuation roll for the fourth quinquennial period, have effect subject to the provisions of that Schedule, being provisions consequential on the preceding provisions of this section. [1134]

*General purpose and effect of sub-s. (1).*—See Preliminary Note, *ante*.

*Fourth quinquennial period.*—The fourth quinquennial period is the period from April, 1946, to April, 1951.

*Preparation of the railway valuation roll.*—As to preparation of the railway valuation roll, see the Railways (Valuation for Rating) Act, 1930, s. 3 (23 Halsbury's Statutes 457), and for the normal method of ascertaining the net annual value of a railway undertaking, see ss. 4 and 5 of the 1930 Act (*ibid.* 458, 461). S. 13 of the 1930 Act (*ibid.* 473) provides for the preparation by the Railway Assessment Authority of a scheme for determining the principles in accordance with which the net annual value of a railway company's undertaking as a whole is to be apportioned between the company's various hereditaments in England.

Since sub-s. (1) specifies the respective net annual values for the fourth quinquennial period, the only tasks remaining to the Railway Assessment Authority are to apportion those values among the various railway hereditaments and to calculate the rateable value of each hereditament by reference to the net annual value so apportioned to it (see s. 3 (3) of the 1930 Act (*ibid.* 458)).

*Functions and expenses of the Joint Authority.*—For the functions of the Joint Authority (or Anglo-Scottish Railways Assessment Authority), see s. 5 of the 1930 Act (*ibid.* 461). In accordance with Part II of Sched. II of the 1930 Act (*ibid.* 480) the expenses of the authority are to be apportioned between England and Scotland in the same proportions as those in which the aggregate of the net receipts of the companies whose undertakings are carried on in England and Scotland stand apportioned between those countries at the close of the period of account in which the expenses are chargeable. In accordance with sub-s. (3), their expenses in relation to the fourth quinquennial period are to be apportioned between England and Scotland in the proportions in which the average net receipts are apportioned in Part III of Sched. I, *post*, as if those receipts had been apportioned by the Joint Authority under s. 5 (1) (i) of the 1930 Act (*ibid.* 461).

*Consequential provisions.*—The amendments made by sub-s. (4) and Sched. II, *post*, to the 1930 Act are consequential on the preceding provisions of this section, and have effect only in relation to the railway valuation roll for the fourth quinquennial period.

**2. Minor amendment of section 12 of principal Act.**—Section twelve of the principal Act shall, as respects the fourth quinquennial period and subsequent quinquennial periods, have effect as if in subsection (5) thereof after the words "under subsection (2) of this section" there were inserted the words "or under subsections (3) or (4) of section eight of this Act". [1135]

*Principal Act.*—The principal Act is the Railways (Valuation for Rating) Act, 1930 (23 Halsbury's Statutes 455) (see s. 1 (1), *ante*). For ss. 8 (3), (4), 12 (2), (5), thereof, see *ibid.* 464, 465, 471, 472.

*General purpose of section.*—This section has been inserted in the Act in order to cure a defect disclosed by the decision of the House of Lords in *Worthing Corp. v. Southern Railway Co.*, [1943] A. C. 593. The facts of this case were that the first respondents were the owners and the second respondents the occupiers of a coal wharf, which on the valuation roll for the period 1931–36 was included as a railway hereditament. The appellants, the rating authority, anticipating that the coal wharf would not appear in the second valuation roll for the period 1937–41 as a railway hereditament, on February 22, 1937, made a proposal under s. 37 of the Rating and Valuation Act, 1925 (14 Halsbury's Statutes 664), for a separate assessment of the coal wharf, on the ground that it was not a railway hereditament. On the valuation roll for 1937–41 which was completed on January 27, 1939, the wharf did not appear as a railway hereditament. Since s. 13 (3) of the Railways (Valuation for Rating) Act, 1930 (23 Halsbury's Statutes 476), excludes the application of the provisions of the Rating and Valuation Act, 1925, to a hereditament for the time being shown in the railway valuation roll as a railway hereditament, the question arose whether the railway valuation roll referred to in this subsection meant the valuation roll existing at the date of the proposal for amendment, or the later valuation roll, which, taking effect retrospectively, governed the quinquennial period during which the proposal was made. It was held that the phrase meant the valuation roll existing at the time when the proposal was made, and, since the wharf appeared then as a railway hereditament, the machinery provided by s. 37 of the Rating and Valuation Act, 1925 (14 Halsbury's Statutes 664), was not available. The proposal was therefore ineffective, which meant that, because of the inevitable delay in preparing a new valuation roll, two years' rates were lost to the local authority in respect of the coal wharf.

The small amendment which is now made to s. 12 (5) of the 1930 Act (23 Halsbury's Statutes 472) as respects the fourth and subsequent quinquennial periods is designed to prevent the recurrence of a like situation in the future.

**3. Superannuation, &c., of employees of Railway Assessment Authority.**

—(1) The Railway Assessment Authority shall be a local authority within

the meaning of the Local Government Superannuation Act, 1937, and that Act shall have effect as if—

- (a) the Railway Assessment Authority were included among the local authorities specified in Part I of the First Schedule to that Act; and
  - (b) the area of the Railway Assessment Authority were situate within the administrative county of Surrey. [1136]
- (2) For the purposes of the said Act, the Local Government Staffs (War Service) Act, 1939, and the Pensions (Increase) Act, 1944,—
- (a) service under the Railway Assessment Authority before the coming into effect of this section shall be treated as always having been service under a local authority; and
  - (b) where any employee of the Railway Assessment Authority has (whether before or after the coming into effect of this section) devoted part of his time to employment by the Joint Authority, that employment and any remuneration in respect thereof shall be treated as employment by, and remuneration under, the Railway Assessment Authority. [1137]
- (3) The Joint Authority shall from time to time pay to the Railway Assessment Authority such proportion of any expenses incurred by the Railway Assessment Authority by reason of this section in respect of persons who have served both those authorities as may be agreed between those authorities or, failing agreement, be determined by the Minister. [1138]
- (4) In paragraph 8 of Part I of the Second Schedule to the principal Act, and in that paragraph as applied to the London Passenger Transport Board, the words “(including in the case of a permanent officer such superannuation allowance or gratuity on retirement),” are hereby repealed. [1139]
- (5) This section shall be deemed to have come into effect on the first day of April, nineteen hundred and forty-six. [1140]

*Effect of section.*—The effect of this section, which was added to the Bill in Committee, is to make provision for the superannuation under the Local Government Superannuation Act, 1937, of certain employees of the Railway Assessment Authority in Surrey.

*Local Government Superannuation Act, 1937, Sched. I, Part I.*—30 Halsbury's Statutes 419.

*Local Government Staffs (War Service) Act, 1939.*—32 Halsbury's Statutes 1118.

*Pensions (Increase) Act, 1944.*—37 Halsbury's Statutes 521.

*Railway Assessment Authority.*—The Railway Assessment Authority is constituted by s. 2 (1) (a) of the Railways (Valuation for Rating) Act, 1930 (23 Halsbury's Statutes 456).

*Joint Authority.*—The Joint Authority is the Anglo-Scottish Railways Assessment Authority constituted by s. 2 (1) (b) of the Railways (Valuation for Rating) Act, 1930 (23 Halsbury's Statutes 456).

*Principal Act.*—The principal Act is the Railways (Valuation for Rating) Act, 1930 (23 Halsbury's Statutes 455) (see s. 1 (1), *ante*); for para. 8 of Part I of Sched. II thereto, see *ibid.* 480.

**4. Application to London Passenger Transport Board.**—References in this Act to, and to the undertakings of, railway companies shall be deemed to include references to the London Passenger Transport Board and that Board's transport undertaking and, in relation to that Board and its said undertaking, references in this Act to the principal Act shall, subject to any necessary adaptations and modifications, be construed as references to that Act as applied to that Board and references in this Act to the fourth quinquennial period and to the railway valuation roll for that period shall be construed as references to the third quinquennial period and to the London Passenger Transport valuation roll for the third quinquennial period. [1141]

*Principal Act.*—The principal Act is the Railways (Valuation for Rating) Act, 1930 (23 Halsbury's Statutes 455) (see s. 1 (1), *ante*).

*Purpose of section.*—This provision is necessary since the Railways (Valuation for Rating) Act, 1930 (23 Halsbury's Statutes 455), does not directly affect the London Passenger Transport Board, but was applied thereto with modifications and adaptations by the London Passenger Transport (Valuation for Rating) Scheme, 1935, made under s. 92 (3) of, and Sched. XV to, the London Passenger Transport Act, 1933 (26 Halsbury's Statutes 835, 869).

**5. Short title and construction.**—This Act may be cited as the Railways (Valuation for Rating) Act, 1946, and shall be construed as one with the principal Act. [1142]

*Principal Act.*—The principal Act is the Railways (Valuation for Rating) Act, 1930 (23 Halsbury's Statutes 455) (see s. 1 (1), *ante*).

## SCHEDULES

### Section 1

### FIRST SCHEDULE

#### PART I

#### NET ANNUAL VALUES OF UNDERTAKINGS (ENGLAND)

Southern Railway Company	..	..	..	..	..	..	£1,528,540
Great Western Railway Company	..	..	..	..	..	..	£1,860,840
London Midland and Scottish Railway Company	..	..	..	..	..	..	£1,993,760
London and North Eastern Railway Company	..	..	..	..	..	..	£1,462,090
London Passenger Transport Board	..	..	..	..	..	..	£969,740
							[1143]

#### PART II

#### CUMULO YEARLY RENT OR VALUE OF UNDERTAKINGS (SCOTLAND)

London Midland and Scottish Railway Company	..	..	..	£598,960
London and North Eastern Railway Company	..	..	....	£311,840
				[1144]

#### PART III

#### APPORTIONMENT OF AVERAGE NET RECEIPTS

London Midland and Scottish Railway Company—							
England	..	..	..	..	..	..	£13,379,185
Scotland	..	..	..	..	..	..	£2,072,638
London and North Eastern Railway Company—							
England	..	..	..	..	..	..	£9,506,717
Scotland	..	..	..	..	..	..	£1,139,374
							[1145]

### Section 1

### SECOND SCHEDULE

#### MODIFICATIONS OF PRINCIPAL ACT APPLICABLE TO ROLL FOR FOURTH QUINQUENNIAL PERIOD

For paragraphs (i) and (ii) of subsection (3) of section three, there shall be substituted the following paragraph :—

“(i) apportion, in the case of a railway company's undertaking which is carried on in England, but not in Scotland, the net annual value of the undertaking as a whole, and in the case of a railway company's undertaking which is carried on in England and in Scotland, the net annual value of the undertaking as a whole in so far as it is carried on in England, among all the railway hereditaments in England occupied by that railway company”.

Sections four and five shall be omitted.

In subsection (1) of section six for the words “having determined in accordance with the foregoing provisions of this Act the net annual value of a railway company's undertaking as a whole, or the net annual value of that undertaking as a whole in so far as it is carried on in England, as the case may be, shall apportion that value” there shall be substituted the words “shall, in the case of each railway company, apportion the net annual value of the company's undertaking as a whole, or the net annual value of the undertaking as a whole in so far as it is carried on in England, as the case may be”.

In section seven the words “the Joint Authority and” and the words “ascertaining and apportioning the net receipts of a railway company, in determining and” shall be omitted.



Paragraphs (i) and (ii) of subsection (2) of section eight shall be omitted.

In section nine, subsection (1), paragraph (a) of subsection (2), paragraph (a) of subsection (4), and paragraph (i) of subsection (5) shall be omitted; in the concluding paragraph of subsection (2) the words "the amount determined to be" and the words from "and they shall not" to the end of the subsection shall be omitted; in subsection (3) the words "and the Joint Authority" shall be omitted.

In subsection (1) of section ten, for the words from "or so long" to "such appeal as aforesaid has been finally determined," there shall be substituted the words "but on the expiration of the said period of six months"; and the words "(whether or not such an appeal as is mentioned in this subsection)" shall be omitted.

In section twenty-two, subsections (1) and (2), and in subsection (6) the words "against a certificate of the Joint Authority or", the words "based on such certificate or" and the words "as the case may be" shall be omitted.

In the Third Schedule, paragraphs 1 to 4 and sub-paragraph (a) of paragraph 6 shall be omitted; in paragraph 5 for the words "to determine with respect to any railway company the net annual value of the undertaking as a whole, or the net annual value of the undertaking as a whole in so far as it is carried on in England, the apportionment thereof" there shall be substituted the words "in the case of any railway company, to apportion the net annual value of the undertaking as a whole or the net annual value of the undertaking as a whole in so far as it is carried on in England"; in the proviso to paragraph 7 the words "the amount proposed to be fixed as" and the words from "and they shall not" to the end of the paragraph shall be omitted; in paragraph 8 after the words "the Authority shall proceed to determine" there shall be inserted the words "the apportionment of" and after the words "as the case may be" the words "the apportionment of that value" shall be omitted; and the words from "or, if any appeal" to the end of the paragraph shall be omitted. [1146]

*Principal Act.*—The principal Act is the Railways (Valuation for Rating) Act, 1930 (23 Halsbury's Statutes 455) (see s. 1 (1)).

*Effect of Schedule.*—The above amendments are consequential on the provisions of s. 1, *ante*, and apply only in relation to the railway valuation roll for the fourth quinquennial period.

## ORDERS, CIRCULARS AND MEMORANDA

### THE RATING AND VALUATION ACT (PRODUCT OF RATES AND PRECEPTS) AMENDMENT RULES, 1946

*S. R. & O., 1946, No. 437*

*March 26, 1946*

The Minister of Health, after such consultations as are required by section 58 of the Rating and Valuation Act, 1925, and in exercise of the powers conferred on him by sections 9 and 58 of that Act, and of all other powers enabling him in that behalf, hereby makes the following rules:—

1.—(1) These rules may be cited as the Rating and Valuation Act (Product of Rates and Precepts) Amendment Rules, 1946, and shall be construed as one with the Rating and Valuation Act (Product of Rates and Precepts) Rules, 1938 (in these rules called "the principal rules"), as amended by the Rating and Valuation Act (Product of Rates and Precepts) Amendment Rules, 1944.

(2) These rules shall have effect for the purposes of any precept issued by a county council in respect of a period beginning on or after the first day of April, 1946. [1147]

2. In their application to any rating authority with respect to which directions have been given by the Minister under paragraph (2) of Regulation

54BA of the Defence (General) Regulations, 1939, the principal rules shall be amended as follows :—

- (i) The following paragraph shall be added to the end of the definition of “gross rate income”—

“(c) any amounts collected during that year representing arrears of rates levied in any period during which directions under paragraph (2) of Regulation 54BA of the Defence (General) Regulations, 1939, were in force as respects the rating area”.

- (ii) In the definition of “loss on collection” after the words “previous rate” there shall be inserted the words “not being a rate levied in any period during which directions under paragraph (2) of Regulation 54BA of the Defence (General) Regulations, 1939, were in force as respects the rating area”. [1148]

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## CASES

*Rates and Rating—Assessment—Gas company—Computation on profits basis—Capital sum required for conduct of undertaking—Source from which, and price at which, capital obtainable irrelevant.*

The Croydon Gas Co., who were the occupiers of certain hereditaments in Croydon, sought a reduction of the rateable value placed upon those hereditaments by the valuation committee. The hereditaments in question were required to be valued on the profits basis and it was agreed that, on the facts of the case, a proper tenant's remuneration was  $12\frac{1}{2}$  per cent. upon the estimated capital required for the conduct of the undertaking. The company had established certain funds for the benefit of their employees and during 1939 the uninvested balance standing to the credit of these funds was £66,311. Under the rules governing the funds, the trustees could, at their discretion, leave the uninvested balance with the company and this had been the practice, the company paying interest thereon at 4 per cent. or 5 per cent. per annum. The recorder found that the capital sum required for the conduct of the undertaking was £730,014, but that £66,311 should be deducted therefrom, on the ground that the uninvested balance of the funds for the benefit of the employees was available to the company in running the undertaking. He held, therefore, that the hypothetical tenant's capital was £663,703, and that £2,622 (the sum paid by the company as interest on the uninvested balance of the funds) should be allowed as a working expense and be deducted from the nett receipts of the company. On an appeal to the Divisional Court from the recorder's decision, the company contended that, in computing the tenant's capital, no deduction should be made on account of the uninvested balance of the funds for the benefit of the employees because a tenant could not assume that he would have the use of that balance for any particular period, or at all, and, moreover, the source from which a tenant raised the capital required for the undertaking was irrelevant. The rating authority contended that whether or not the sum of £66,311 should be deducted was a question of fact and not of law, and therefore no appeal lay :—

*Held :* (i) it was not essential, in making a computation on the profits basis, to fix  $12\frac{1}{2}$  per cent. as the tenant's share, but, whatever percentage was fixed, it must be applied to the whole capital which the tenant was assumed to put into the business.

(ii) The source from which, and the price at which, a tenant could get his capital had no bearing upon what amount was required. The capital sum required could not vary with the particular tenant. As it had been found that the capital sum required for the conduct of the undertaking was £730,014, that sum was immutably fixed and no deduction could be made

from it. The fact that a tenant could, for the time being, obtain part of the capital required by paying less than 12½ per cent. for it was irrelevant.

(iii) In giving effect to irrelevant facts, the recorder's decision involved a mistake in law.—*CROYDON GAS CO. v. CROYDON COUNTY BOROUGH RATING AUTHORITY*, [1946] K. B. 380 ; [1946] 1 All E. R. 384 ; 115 L. J. K. B. 308 ; 174 L. T. 285 ; 110 J. P. 223 ; 62 T. L. R. 239 ; 90 Sol. Jo. 236 ; 44 L. G. R. 57, D. C. [1149]

*Rates and Rating—Valuation of agricultural dwelling-houses—Deduction from minimum wage in respect of dwelling-houses—Whether gross value limited by value for payment of wages in lieu of cash—Agricultural Wages (Regulation) Acts, 1924–1940—Local Government Act, 1929 (c. 17), s. 72.*

Two cottages on the appellant's farm were occupied respectively by a foreman, who received his wages free from any deduction in respect of the cottage, and a tractor driver, from whose wages a sum was deducted in respect of the cottage. The deduction was made pursuant to an order made by the local agricultural committee under the Agricultural Wages (Regulation) Acts, 1924–1940, which fixed a minimum wage and enabled part of that wage to be paid otherwise than in cash :—

*Held* : (i) the Local Government Act, 1929, s. 72, required that where agricultural cottages were used as dwelling-houses for agricultural labourers, the cottages, for the purposes of rating, were to be dealt with as though they were let to the farmer, subject to a restrictive covenant that he could use them only for the purpose of housing his labourers.

(ii) The gross value of the cottages, ascertained in accordance with that section, was not limited by the value at which they were to be reckoned as payment of wages in lieu of payment in cash under the Agricultural Wages (Regulation) Acts, 1924–1940, and the order then in force.

(iii) The true effect of the section was that the gross value of the cottages was to be fixed by reference to the rent at which the cottages would be expected to let with a restrictive covenant upon them ; and account must be taken both of the greater benefit which the farmer might be receiving through having cottages into which he could put his labourers, and of the diminution, by the restriction as to their user, of the gross value they would otherwise bear.—*BOMFORD v. SOUTH WORCESTERSHIRE ASSESSMENT COMMITTEE*, [1946] K. B. 442 ; [1946] 2 All E. R. 80 ; 115 L. J. K. B. 396 ; 62 T. L. R. 386 ; 44 L. G. R. 208, D. C. ; *affirmed*, [1947] 1 All E. R. 299. [1150]

## REGISTRATION OF BIRTHS, DEATHS AND MARRIAGES

ORDERS, CIRCULARS AND MEMORANDA :—

Registration (Births, Deaths and Marriages) Regulations, 1946 - - - - PAGE 453

### ORDERS, CIRCULARS AND MEMORANDA

#### THE REGISTRATION (BIRTHS, DEATHS AND MARRIAGES) REGULATIONS, 1946

S. R. & O., 1946, No. 546

April 1, 1946

The Registrar-General, in exercise of powers conferred on him by the Births and Deaths Registration Acts, 1836 to 1929, and the Marriage Acts, 1811 to 1939, and of all other powers enabling him in that behalf, with the

approbation and concurrence of the Minister of Health, hereby makes the following regulations :—

1.—(1) These regulations may be cited as the Registration (Births, Deaths and Marriages) Regulations, 1946, and shall be construed as one with the Registration (Births, Stillbirths, Deaths and Marriages) Regulations, 1927 to 1938.

(2) These regulations shall come into operation on the first day of April, 1946.

(3) The Registration (Births, Stillbirths, Deaths and Marriages) Regulations, 1927 to 1938, and these regulations may be cited together as the Registration (Births, Stillbirths, Deaths and Marriages) Regulations, 1927 to 1946.

(4) The Registration (Births, Stillbirths, Deaths and Marriages) Consolidated Regulations, 1927, are hereinafter referred to as “the principal regulations.” [1151]

2.—(1) For the heading to regulations 112 to 117 of the principal regulations there shall be substituted the words “Verification of particulars in connection with claims under the Widows’, Orphans’ and Old Age Contributory Pensions Acts, 1936 to 1941, and under the Family Allowances Act, 1945.”

(2) For the heading to regulations 118 to 122 of the principal regulations there shall be substituted the words “Reports of events affecting continuance of pensions, etc., under the Widows’, Orphans’ and Old Age Contributory Pensions Acts, 1936 to 1941, and of allowances under the Family Allowances Act, 1945.” [1152]

3. There shall be substituted for the ninth schedule to the principal regulations the schedule set out in Part I of the schedule to these regulations, and for the tenth schedule to the principal regulations the schedule set out in Part II of the schedule to these regulations. [1153]

## SCHEDULE

### PART I

#### *The Ninth Schedule*

Forms of requisition for the purposes of the Widows’, Orphans’ and Old Age Contributory Pensions Acts, 1936 to 1941, and of the Family Allowances Act, 1945.

#### Art. 112

#### REQUISITION

Any discrepancies found should be inserted in this column.	BIRTH			
		Day	Month	Year
	Date of birth .. ..			
	Place of birth .. .. (Full address)			
	Child’s full Christian names and sex.	Boy or Girl		
	Father’s full Christian names and surname.			
	Father’s occupation ..			
	Mother’s full Christian names and surname.			
	Mother’s maiden surname			
	(a) Found as above ..			
	(b) Not found .. ..			
	(c) Entry quoted ..			

## REQUISITION

Any discrepancies found should be inserted in this column.		MARRIAGE				
		Date of Marriage ..	Day	Month	Year	
		Place of marriage (including name of building).				
	Age and condition	Full name and surname of husband.				
	Age and condition	Full name and surname (immediately before this marriage) of wife.				
		Full name and surname of wife's father.				
		(a) Found as above ..				
		(b) Not found .. ..				

## REQUISITION

Any discrepancies found should be inserted in this column.		DEATH				
		Date of death .. ..	Day	Month	Year	
		Place of death .. .. (Full address).				
		Full name and surname of deceased person.				
		Age .. ..				
		Occupation of deceased				
		(a) Found as above ..				
		(b) Not found .. ..				

## PART II

*The Tenth Schedule*

Particulars to be reported for the purposes of the Widows', Orphans' and Old Age Contributory Pensions Acts, 1936 to 1941, and of the Family Allowances Act, 1945. Art. 118

Col. 1	Col. 2
<i>Death</i>	
I. Male person who has attained 65 but is under 70 years of age.	When and where died Name and surname Age Rank or profession
II. Female person who has attained 60 but is under 70 years of age.	
III. Widow under the age of 60 years.	
IV. Child under the age of 17 years.	
<i>Marriage</i>	
Widow .. .. .	When married
	Bridegroom { Name and surname Residence at the time of marriage
	Bride { Name and surname Age and condition Residence at the time of marriage

[1155]

## ROAD TRAFFIC

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Motor Vehicles (Construction and Use) (Amendment) (No. 2) Regulations, 1946 — — — —	458	Defence (General) Regulations, 1939, Regulation 72 amended —	479
Motor Vehicles (Construction and Use) (Track Laying Vehicles) (Amendment) Regulations, 1946 — — — —	459	Traffic Commissioners (Reduction of Number) (Revocation) Order, 1946 — — — —	480
Motor Vehicles (Authorisation of Special Types) (Amendment) Order, 1946 — — — —	460	Motor Vehicles (Authorisation of Special Types) (Amendment) (No. 3) Order, 1946 — — — —	480
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## ORDERS, CIRCULARS AND MEMORANDA

THE MOTOR VEHICLES (CONSTRUCTION AND USE)  
(AMENDMENT) REGULATIONS, 1946

S. R. &amp; O., 1946, No. 402

March 20, 1946

As from April 12, 1947, these Regulations, with the Motor Vehicles (Construction and Use) (Amendment) (Nos. 2-5) Regulations (S. R. & O., 1946, Nos. 403, 939, 2017 and 2130, *post*), were revoked by S. R. & O., 1947, No. 670, which consolidated without amendment all the Regulations in this series.

Whereas in exercise of the powers conferred upon him by section 30 of the Road Traffic Act, 1930, the Minister of Transport made the Motor Vehicles (Construction and Use) Regulations, 1941 (hereinafter called "the Principal Regulations") :

And whereas by virtue of the Ministers of the Crown (Minister of War Transport) Order, 1941, the powers aforesaid are now vested in the Minister of War Transport :

And whereas, for the purpose of extending from time to time the period prescribed by the Principal Regulations within which certain motor vehicles and trailers are required to comply with certain requirements as to servo-braking systems, the diameter of wheels, the fitting of pneumatic tyres, brakes not being rendered ineffective by the non-rotation of the engine, and the drawing of trailers by motor cycles, those Regulations have been amended by the Motor Vehicles (Construction and Use) (No. 2) Provisional Regulations, 1941, the Motor Vehicles (Construction and Use) (Amendment) (No. 6) Provisional Regulations, 1942, the Motor Vehicles (Construction and Use)



(Amendment) (No. 3) Provisional Regulations, 1943, the Motor Vehicles (Construction and Use) (Amendment) (No. 4) Provisional Regulations, 1943, and the Motor Vehicles (Construction and Use) (Amendment) Provisional Regulations, 1944 :

And whereas it is expedient that the time for compliance with those requirements should be further extended.

Now, therefore, in exercise of the powers aforesaid and of all other powers enabling him in that behalf, the Minister of War Transport hereby makes the following Regulations :—

1. These Regulations may be cited as “ The Motor Vehicles (Construction and Use) (Amendment) Regulations, 1946.” [1156]

2. The Principal Regulations as so amended shall have effect as though in Regulation 10, the proviso to Regulation 12, paragraph (3) of Regulation 30, paragraph (3) of Regulation 34, the first proviso to Regulation 35, paragraph (3) of Regulation 39, the first proviso to Regulation 40, paragraph (3) of Regulation 50, Regulation 52 and Regulation 89 thereof, the date “ 1st January, 1947,” were substituted for the date “ 1st January, 1946.” [1157]

3. The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [1158]

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## THE MOTOR VEHICLES (CONSTRUCTION AND USE) (AMENDMENT) (NO. 2) REGULATIONS, 1946

*S. R. & O., 1946, No. 403*

*March 20, 1946*

See note to S. R. & O., 1946, No. 402, p. 457, *ante*.

Whereas in exercise of the powers conferred upon him by section 30 of the Road Traffic Act, 1930, the Minister of Transport made The Motor Vehicles (Construction and Use) Regulations, 1941 (hereinafter called “ the Principal Regulations ”) :

And whereas by virtue of the Ministers of the Crown (Minister of War Transport) Order, 1941, the powers aforesaid are now vested in the Minister of War Transport :

And whereas the Principal Regulations have been modified from time to time and it is expedient that they should be further modified in manner hereinafter appearing :

Now, therefore, in exercise of the powers aforesaid, and of all other powers enabling him in that behalf, the Minister of War Transport hereby makes the following Regulations :—

1. These Regulations may be cited as “ The Motor Vehicles (Construction and Use) (Amendment) (No. 2) Regulations, 1946,” and shall come into force on the 20th day of March, 1946. [1159]

2. The Principal Regulations shall have effect as though :—

(1) in Regulation 8 (which makes provision for the equipment of springs in motor vehicles and trailers except in the cases specified in the proviso to the Regulation) the following were added after paragraph (vii) of the proviso :—

“ (viii) any vehicle not exceeding 4 tons in weight unladen specially designed for and mainly used in operations which necessitate working on rough ground or unmade roads if all the wheels are equipped with pneumatic tyres and it is not driven or drawn at a speed exceeding 20 miles per hour.” ;

- (2) in Regulation 33 (which regulates the overhang of heavy motor cars) the following paragraphs were added after paragraph (iii) of the proviso :—

“(iv) in the case of a vehicle designed for use and mainly used by or on behalf of a public authority for the purpose of heating a road or other like surface in the process of construction, repair or maintenance, no part of the heating plant shall be taken into account when calculating the overhang; and

(v) this Regulation shall not apply to a vehicle designed so that it can dispose of its load by tipping to the rear, if the overhang does not exceed 45 inches.”

- (3) in Regulation 48 (which regulates the overall length of trailers except in the case specified in the proviso to the Regulation) the following words were added at the end of the proviso :—

“or to any trailer being a drying or mixing plant for the production of asphalt or of bituminous or tar macadam, used mainly for the construction, repair or maintenance of roads, or to any road planing machine so used, provided that the total overall length of such trailer and any drawing vehicle when coupled thereto shall not exceed 60 feet inclusive of the draw bar.”

- (4) in sub-paragraph (a) of paragraph (1) of Regulation 50 (which makes provision as to the construction of brakes on trailers subject to certain modifications in case of certain trailers not exceeding 2 tons in weight) the words “not exceeding 45 cwts. in total weight” were substituted for the words “not exceeding 2 tons in total weight.” [1160]

3. The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [1161]

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## THE MOTOR VEHICLES (CONSTRUCTION AND USE) (TRACK LAYING VEHICLES) (AMENDMENT) REGULA- TIONS, 1946

*S. R. & O., 1946, No. 404*

*March 20, 1946*

Whereas in exercise of the powers conferred upon him by section 30 of the Road Traffic Act, 1930, the Minister of Transport made the Motor Vehicles (Construction and Use) (Track Laying Vehicles) Regulations, 1941 (hereinafter called “the Principal Regulations”):

And whereas by virtue of the Ministers of the Crown (Minister of War Transport) Order, 1941, the powers aforesaid are now vested in the Minister of War Transport:

And whereas, for the purpose of extending from time to time the period prescribed by the Principal Regulations within which certain motor vehicles and trailers are required to comply with certain requirements as to servo-braking systems, the diameter of wheels and the fitting of pneumatic tyres, those Regulations have been amended by the Motor Vehicles (Construction and Use) (Amendment) (No. 2) Provisional Regulations, 1941, the Motor Vehicles (Construction and Use) (Amendment) (No. 6) Provisional Regulations, 1942, the Motor Vehicles (Construction and Use) (Amendment) (No. 3)

Provisional Regulations, 1943, and the Motor Vehicles (Construction and Use) (Track Laying Vehicles) (Amendment) Provisional Regulations, 1944 :

And whereas it is expedient that the time for compliance with those requirements should be further extended.

Now, therefore, in exercise of the powers aforesaid and of all other powers enabling him in that behalf, the Minister of War Transport hereby makes the following Regulations :—

1. These Regulations may be cited as “ The Motor Vehicles (Construction and Use) (Track Laying Vehicles) (Amendment) Regulations, 1946.” [1162]

2. The Principal Regulations as so amended shall have effect as though in Regulation 10, the proviso to Regulation 12, the first proviso to Regulation 30, the first proviso to Regulation 32 and Regulation 38 thereof, the date “ 1st January, 1947,” were substituted for the date “ 1st January, 1946.” [1163]

3. The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [1164]

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## THE MOTOR VEHICLES (AUTHORISATION OF SPECIAL TYPES) (AMENDMENT) ORDER, 1946

*S. R. & O., 1946, No. 434*

*March 25, 1946*

Whereas the Minister of War Transport, in exercise of the powers conferred on the Minister of Transport by section 3 of the Road Traffic Act, 1930, and now vested in him by virtue of the Ministers of the Crown (Minister of War Transport) Order, 1941, made The Motor Vehicles (Authorisation of Special Types) Order, 1945 (hereinafter called “ the Principal Order ”) (which authorises the use on roads of certain special motor vehicles, notwithstanding that they do not comply in all respects with the requirements of the Motor Vehicles (Construction and Use) Regulations, 1941, subject to the condition that such vehicles should be operated only by or on behalf of the Ministry of Works).

And whereas it is expedient that the Principal Order should be amended so as to apply to the operation of such vehicles by or on behalf of the Ministry of Fuel and Power instead of by or on behalf of the Ministry of Works :

Now, therefore, the Minister [*i.e.* the Minister of War Transport], in exercise of the powers so conferred upon him and of all others powers enabling him in that behalf, hereby makes the following Order :—

1. This Order may be cited as “ The Motor Vehicles (Authorisation of Special Types) (Amendment) Order, 1946.” [1165]

2. The Principal Order shall have effect as though the words “ Ministry of Fuel and Power ” were substituted for the words “ Ministry of Works ” in paragraph 2 thereof. [1166]

3. The Interpretation Act, 1889, shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament. [1167]

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## THE ROAD VEHICLES (REGISTRATION AND LICENSING) (AMENDMENT) REGULATIONS, 1946

*S. R. & O.*, 1946, No. 867

June 18, 1946

Whereas in exercise of his powers under, *inter alia*, section 13 of the Finance Act, 1920, and section 12 of the Roads Act, 1920, the Minister of War Transport made the Road Vehicles (Registration and Licensing) Regulations, 1941 (hereinafter referred to as "the Principal Regulations") :

And whereas by virtue of section 5 of the Finance (No. 2) Act, 1945, the duty on certain mechanically-propelled vehicles is to be charged by reference to cylinder capacity instead of horse-power, and the Minister of War Transport was empowered to make Regulations as to the calculation of cylinder capacity.

And whereas the powers aforesaid are now vested in the Minister of Transport (hereinafter referred to as "the Minister") by virtue of the Ministry of War Transport (Dissolution) Order, 1946 :

Now, therefore, the Minister, in exercise of the powers aforesaid and of all other powers enabling him in that behalf, hereby makes the following Regulations :—

1. These Regulations may be cited as "The Road Vehicles (Registration and Licensing) (Amendment) Regulations, 1946", and shall come into force on the first day of January, 1947. [1168]

2. The Principal Regulations shall have effect as though :—

(1) the words "or cylinder capacity" were inserted immediately after the words "horse-power" in sub-paragraph (b) of paragraph (ii) of Regulation 13 thereof ; and

(2) the following paragraphs were substituted for paragraphs (4), (5) and (6) of Regulation 34 thereof :—

"(4) In measuring cylinders and boilers for the purpose of calculating horse-power, and in calculating horse-power, fractions of inches and feet and fractions of a unit of horse-power are to be taken into account. Provided that in the final calculation of horse-power a resultant fraction of less than .1 of a unit of horse-power shall be omitted.

(5) For the purposes of the Finance Act, 1920, as amended by the Finance (No. 2) Act, 1945, the cylinder capacity of any mechanically-propelled vehicle deriving its motive power wholly from an internal combustion engine worked by a cylinder or cylinders shall be taken to be :—

(a) in the case of a single-cylinder engine the cylinder capacity of that cylinder ;

(b) in the case of an engine having two or more cylinders the sum of the cylinder capacities of the separate cylinders.

(6) The cylinder capacity attributable to any cylinder of an internal combustion engine shall be deemed to be equal to :—

(a) in the case of a cylinder having a single piston, the product expressed in cubic centimetres of the square of the internal diameter of such cylinder measured in centimetres, and the distance through which the piston associated with that cylinder moves during one half of

a revolution of the engine measured in centimetres multiplied by 0.7854 : and

- (b) in the case of a cylinder having more than one piston, the sum of the products expressed in cubic centimetres of the square of the internal diameter of each part of the cylinder in which a piston moves measured in centimetres and the distance through which the piston associated with that diameter moves during one half of a revolution of the engine measured in centimetres multiplied by 0.7854.

(7) In measuring cylinders for the purposes of calculating cylinder capacity, and in calculating cylinder capacity, fractions of centimetres and fractions of units of cylinder capacity are to be taken into account. Provided that in the final calculation of cylinder capacity a resultant fraction of less than .15 of a unit of cylinder capacity shall be omitted." [1169]

3. The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

[1170]

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## THE MOTOR VEHICLES (CONSTRUCTION AND USE) (AMENDMENT) (NO. 3) REGULATIONS, 1946

*S. R. & O., 1946, No. 939*

*June 26, 1946*

See note to *S. R. & O., 1946, No. 402, p. 457, ante.*

Whereas in exercise of the powers conferred upon him by section 30 of the Road Traffic Act, 1930, the Minister of Transport (hereinafter called "the Minister") made the Motor Vehicles (Construction and Use) Regulations, 1941 (hereinafter called "the Principal Regulations"):

And whereas it is expedient that the provisions of Regulation 32 and Regulation 37 of the Principal Regulations (which restrict the overall width of heavy motor cars and motor cars respectively) should be modified to permit of an increase in the overall width of public service vehicles or vehicles constructed or adapted for use as such ; but that the use on roads of vehicles the overall width of which is so increased should be restricted to roads suitable for such use :

And whereas it is expedient that the provisions of Regulation 64 of the Principal Regulations (which restricts the laden weight of heavy motor cars and motor cars) should cease to apply to public service vehicles, and that separate provision should be made for such vehicles :

Now, therefore, in exercise of the powers aforesaid, and of all other powers enabling him in that behalf, the Minister hereby makes the following Regulations :—

1. These Regulations may be cited as "The Motor Vehicles (Construction and Use) (Amendment) (No. 3) Regulations, 1946," and shall come into force on the 1st day of July, 1946. [1171]

2. The Principal Regulations shall have effect as though :—

- (1) The following were added as a third proviso to Regulation 32 thereof :—

" Provided also that in the case of a vehicle which is a public

service vehicle or a vehicle which is constructed or adapted for use as such a vehicle or a chassis which is constructed for such a vehicle the aforesaid width of 7 feet 6 inches may be exceeded by 6 inches."

- (2) The following proviso were added to Regulation 37 thereof :—

" Provided that in the case of a vehicle which is a public service vehicle or a vehicle which is constructed or adapted for use as such a vehicle or a chassis which is constructed for such a vehicle this width may be exceeded by 6 inches."

- (3) The following Regulation were inserted immediately after Regulation 64 thereof :—

" **64A.**—(1) Regulation 64 hereof shall not apply to public service vehicles.

(2) In the case of a heavy motor car or a motor car which is a public service vehicle the weight transmitted to the road surface by any two wheels in line transversely shall not exceed 8 tons, and the sum of the weights so transmitted by all the wheels shall not exceed, in the case of a vehicle with not more than four wheels, 12 tons, and, in the case of a vehicle with more than four wheels, 14 tons.

(3) For the purpose of this Regulation the weight transmitted to the road surface by a vehicle shall be taken to be the weight so transmitted by the vehicle when it is complete and fully equipped for service with a full supply of water, oil and fuel and loaded with weights of 140 lbs. per person placed in the correct relative positions for each passenger for whom a seat is provided and for the driver and conductor (if carried)," and

- (4) The following Regulation were inserted immediately after Regulation 66 thereof :—

" **66A.** No person shall use or permit to be used any vehicle the overall width of which exceeds 7 feet 6 inches by virtue of the third proviso to Regulation 32 hereof or the proviso to Regulation 37 hereof on any road unless :—

(a) the road is for the time being approved in writing by the Chairman of the Traffic Commissioners for any traffic area or his duly appointed deputy or, in the case of the Metropolitan traffic area, the Commissioner for that area or his duly appointed deputy as being a road suitable for use by such vehicles ; or

(b) the vehicle is not being used as a public service vehicle and is proceeding on a journey

(i) in connection with the construction, testing, delivery, or repair of the vehicle,

(ii) for the purpose of making trial of the suitability of a road for the use of such vehicles,

(iii) to or from any point on a route operated by public service vehicles on a road approved as aforesaid, or

(iv) for any purpose approved either generally or specially by the Chairman of the Traffic Commissioners for any traffic area or his duly appointed deputy, or, in the case of the Metropolitan traffic area, the Commissioner for that area or his duly appointed deputy ; or

(c) the use of the vehicle on the road is necessitated by reason

of the temporary stoppage of a road approved as aforesaid." [1172]

3. The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [1173]

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## THE TRAFFIC ON HIGHWAYS (REVOCATION) ORDER, 1946

*S. R. & O., 1946, No. 1271*

*July 26, 1946*

The Minister of Transport in exercise of his powers under Regulation 70 of the Defence (General) Regulations, 1939, as having effect by virtue of the Supplies and Services (Transitional Powers) Act, 1945, and of all other powers enabling him in that behalf, hereby makes the following Order :—

1. The Traffic on Highways Order, 1941 (which provides for the direction or prohibition of traffic by police constables in areas which have suffered from hostile attack), is hereby revoked. [1174]

2. This Order shall come into force on the Ninth day of August, 1946, and may be cited as "The Traffic on Highways (Revocation) Order, 1946." [1175]

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## THE MOTOR VEHICLES (AUTHORISATION OF SPECIAL TYPES) (AMENDMENT) (NO. 2) ORDER, 1946

*S. R. & O., 1946, No. 1294*

*July 29, 1946*

Whereas the Minister of War Transport, in exercise of the powers conferred on the Minister of Transport (hereinafter called "the Minister") by Section 3 of the Road Traffic Act, 1930, and for the time being vested in him made the Motor Vehicles (Authorisation of Special Types) Order, 1944 (which authorises the use on roads of land tractors constructed for the combined purpose of reaping and threshing, notwithstanding that they do not comply in all respects with the requirements of the Motor Vehicles (Construction and Use) Regulations, 1941, provided (*inter alia*) that the overall width of any such vehicle does not exceed 10 ft.):

And whereas it is provided by the said Section 3 that the Minister may at any time make, vary, or amend an order made thereunder :

And whereas it is expedient that the operation of the said Order should be extended so as to include, subject to the conditions hereinafter specified, any land tractor constructed for the purpose aforesaid, the overall width of which exceeds 10 ft., but does not exceed 14 ft. :

Now, therefore, the Minister, in exercise of the powers so conferred upon him and of all other powers enabling him in that behalf, hereby makes the following Order :—



1. This Order may be cited as "The Motor Vehicles (Authorisation of Special Types) (Amendment) (No. 2) Order, 1946", and shall come into force forthwith. [1176]

2. The Motor Vehicles (Authorisation of Special Types) Order, 1944, shall have effect as though :—

- (1) in sub-paragraph (c) of paragraph 3 thereof " 14 ft." were substituted for " 10 ft." ;
- (2) the following sub-paragraphs were substituted for sub-paragraphs (d) and (f) of paragraph 3 thereof, respectively :—

" (d) Where the overall width of any such vehicle :—

- (i) exceeds 8 ft., but does not exceed 9 ft., one person in addition to the driver shall be in attendance on the vehicle ;
- (ii) exceeds 9 ft. but does not exceed 10 ft., two persons in addition to the driver shall be in attendance on the vehicle one of whom shall whenever necessary proceed at a reasonable distance in front of the vehicle and the other of whom shall whenever necessary proceed at a reasonable distance behind the vehicle, in each case to give warning to other traffic on the road ;
- (iii) exceeds 10 ft., two persons in addition to the driver shall be in attendance on the vehicle one of whom shall proceed at a reasonable distance in front of the vehicle and the other of whom shall proceed at a reasonable distance behind the vehicle, in each case to give warning to other traffic on the road.

(f) No such vehicle the overall width of which exceeds 10 ft. shall travel at a speed exceeding 4 miles per hour, and no other such vehicle shall travel at a speed exceeding 10 miles per hour." [1177]

3. This Order shall cease to have effect on the 30th day of November, 1946, without prejudice however to the validity of anything previously done thereunder. [1178]

4. The Interpretation Act, 1889, shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament. [1179]

\* \* \* \* \*

## THE ROAD VEHICLES (REGISTRATION AND LICENSING) (AMENDMENT) (NO. 2) REGULATIONS, 1946

*S. R. & O., 1946, No. 1328*

*August 2, 1946*

Whereas in exercise of his powers under, inter alia, section 12 of the Roads Act, 1920, the Minister of War Transport on the 28th July, 1941, made the Road Vehicles (Registration and Licensing) Regulations, 1941 (hereinafter referred to as "the Principal Regulations") ;

And whereas by the Road Vehicles (Registration and Licensing) (Amendment) Regulations, 1942, and the Road Vehicles (Registration and Licensing) (Amendment) Regulations, 1944, paragraph (2) of Regulation 26 of the Principal Regulations (which provides that as from the first day of October, 1942, every mechanically-propelled vehicle shall comply with the requirements therein specified as to the exhibition and illumination of its identification marks) was amended by the substitution of "the first day of October, 1946" for "the first day of October, 1942" ;

And whereas it is expedient that the time for compliance with those requirements should be further extended ;

Now, therefore, the Minister of Transport in exercise of the powers aforesaid now vested in him by virtue of the Ministry of War Transport (Dissolution) Order, 1946, and of all other powers enabling him in that behalf hereby makes the following Regulations :—

1. These Regulations may be cited as “ The Road Vehicles (Registration and Licensing) (Amendment) (No. 2) Regulations, 1946 ”. [1180]

2. The Principal Regulations shall have effect as though in paragraph (2) of Regulation 26 thereof, as so amended, the expression “ the first day of October, 1947,” were substituted for the expression “ the first day of October, 1946 ”. [1181]

3. The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [1182]

\* \* \* \* \*

## THE ROAD VEHICLES (REGISTRATION AND LICENSING) (AMENDMENT) (NO. 3) REGULATIONS, 1946

*S. R. & O., 1946, No. 1557*

*September 24, 1946*

Whereas in exercise of his powers under, inter alia, section 12 of the Roads Act, 1920, the Minister of War Transport made the Road Vehicles (Registration and Licensing) Regulations, 1941 (hereinafter referred to as “ the Principal Regulations ”);

And whereas it is expedient that the provisions of the Principal Regulations should be amended in order to allot further index marks to the Councils specified in the Schedule to these Regulations.

Now, therefore, the Minister of Transport, in exercise of the powers conferred on him by section 12 of the Roads Act, 1920, and of all other powers enabling him in that behalf, hereby makes the following Regulations :—

1. These Regulations may be cited as “ The Road Vehicles (Registration and Licensing) (Amendment) (No. 3) Regulations, 1946 ”, and shall come into force on the first day of October, 1946. [1183]

2. The Principal Regulations shall have effect as though in the Third Schedule thereto there were respectively allotted to the Councils specified in the First Column of the Schedule hereto the further index marks specified in the Second Column of the Schedule hereto. [1184]

3. The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [1185]

\* \* \* \* \*

### THE SCHEDULE

<i>Council</i>						<i>New Index Mark or Index Marks</i>				
County Council of—										
Anglesey	..	..	..	..	..	AEY & BEY.				
Bedford	..	..	..	..	..	GBM	GMJ,	GNM,	GTM,	HBM,
						HMJ,	HNM,	HTM,	JBM,	JMJ,
						JNM,	JTM,	KBM,	KMJ,	KNM,
						KTM,	LBM,	LMJ,	LNm,	LTM,
						MBM,	MMJ,	MNM,	MTM,	NBM,
						NMJ,	NNM,	NTM,	OBM,	OMJ,
						ONM & OTM.				

Council					New Index Mark or Index Marks				
County Council of—									
Berks .. .. .	..	..	..	..	FBL, FJB, FMO, FRX, GBL, GJB, GMO, GRX, HBL, HJB, HMO & HRX.				
Brecknock .. .. .	..	..	..	..	AEU.				
Bucks .. .. .	..	..	..	..	LBH, LKX, LPP, MBH, MKX, MPP, NBH, NKX, NPP, OBH, OKX, OPP, PBH, PKX, PPP, RBH, RKX, RPP, SBH, SKX & SPP.				
Caernarvon .. .. .	..	..	..	..	ACC, AJC, BCC, BJC, CCC & CJC.				
Cambridge .. .. .	..	..	..	..	HCE, HER, HVE, JCE, JER, JVE, KCE, KER, KVE, LCE, LER & LVE.				
Cardigan .. .. .	..	..	..	..	CEJ.				
Carmarthen .. .. .	..	..	..	..	FBX, FTH, GBX, GTH, HBX, HTH, JBX & JTH.				
Chester .. .. .	..	..	..	..	LLG, LMA, LMB, LTU, MLG, MMA, MMB, MTU, NLG, NMA, NMB, NTU, OLG, OMA, OMB, OTU, PLG, PMA, PMB, PTU, RLG, RMA, RMB, RTU, SLG, SMA, SMB, STU, TLG, TMA, TMB & TTU.				
Cornwall .. .. .	..	..	..	..	MAF, MCV, MRL, NAF, NCV, NRL, OAF, OCV, ORL, PAF, PCV, PRL, RCV, RRL, SAF, SCV & SRL.				
Cumberland .. .. .	..	..	..	..	HAO, HRM, JAO, JRM, KAO, KRM, LAO, LRM, MAO, MRM, NAO & NRM.				
Denbigh .. .. .	..	..	..	..	GCA, GUN, HCA, HUN, JCA, JUN, KCA & KUN.				
Derby .. .. .	..	..	..	..	MNU, MRA, MRB, NNU, NRA, NRB, ONU, ORA, ORB, PNU, PRA, PRB, RNU, RRA, RRB, SNU, SRA, SRB, TNU, TRA, TRB, UNU, URA, URB, VNU, VRA & VRB.				
Devon .. .. .	..	..	..	..	LDV, LOD, LTA, LTT, LUO, MDV, MOD, MTA, MTT, MUO, NDV, NOD, NTA, NTT, NUO, ODV, OOD, OTA, OTT, OUO, PDV, POD, PTA, PTT & PUO.				
Dorset... .. .	..	..	..	..	CFX, CJT, CPR, CTK, DFX, DJT, DPR, DTK, EFX, EJT, EPR, ETK, FFX, FJT, FPR, FTK, GFX, GJT, GPR & GTK.				
Durham .. .. .	..	..	..	..	HPT, HUP, JPT, JUP, KPT, KUP, LPT, LUP, MPT, MUP, NPT, NUP, OPT & OUP.				
Isle of Ely .. .. .	..	..	..	..	AEB, AJE, BEB, BJE, CEB & CJE.				
Essex .. .. .	..	..	..	..	NEV, NHK, NNO, NPU, NTW, NVW, NVX, OEV, OHK, ONO, OPU, OTW, OVW, OVX, PEV, PHK, PNO, PPU, PTW, PVW, PVX, REV, RHK, RNO, RPU, RTW, RVW, RVX, SEV, SHK, SNO, SPU, STW, SVW, SVX, TEV, THK, TNO, TPU, TTW, TVW, TVX, UEV, UHK, UNO,				

<i>Council</i>					<i>New Index Mark or Index Marks</i>				
County Council of—									
Essex—cont.	..	..	..	..	UPU,	UTW,	UVW,	UVX,	VEV,
					VHK,	VNO,	VPU,	VTW,	VVW,
					VVX,	WEV,	WHK,	WNO,	WPU,
					WTW,	WVW,	WVX,	XEV,	XHK,
					XNO,	XPU,	XTW,	XVW	&
					XVX.				
Flint	..	..	..	..	EDM,	FDM,	GDM,	HDM,	JDM,
					KDM	&	LDM.		
Glamorgan	..	..	..	..	JNY,	JTG,	JTX,	KNY,	KTG,
					KTX,	LNy,	LTG,	LTX,	MNY,
					MTG,	MTX,	NNY,	NTG,	NTX,
					ONY,	OTG,	OTX,	PNY,	PTG,
					PTX,	RNY,	RTG,	RTX,	SNY,
					STG	&	STX.		
Gloucester	..	..	..	..	HAD,	HDD,	HDF,	HDG,	JAD,
					JDD,	JDF,	JDG,	KAD,	KDD,
					KDF,	KDG,	LAD,	LDD,	LDF,
					LDG,	MAD,	MDD,	MDF,	MDG,
					NAD,	NDD,	NDF	&	NDG.
Hereford	..	..	..	..	ECJ,	EVJ,	FCJ,	FVJ,	GCJ,
					HGJ,	HVJ,	JCJ,	JVJ,	KCJ
					KVJ.				
Hertford	..	..	..	..	KAR,	KJH,	KNK,	KRO,	KUR,
					LAR,	LJH,	LNK,	LRO,	LUR,
					MAR,	MJH,	MNK,	MRO,	MUR,
					NAR,	NJH,	NNK,	NRO,	NUR,
					OAR,	OJH,	ONK,	ORO,	OUR,
					PAR,	PJH,	PNK,	PRO,	PUR,
					RAR,	RJH,	RNK,	RRO,	RUR,
					SAR,	SJH,	SNK,	SRO,	SUR,
					TAR,	TJH,	TNK,	TRO,	TUR,
					UAR,	UJH,	UNK,	URO	&
					UUR.				
Huntingdon	..	..	..	..	GEW,	HEW,	KEW,	LEW,	MEW,
					NEW,	OEW,	PEW	&	REW.
Kent	..	..	..	..	MKE,	MKJ,	MKK,	MKL,	MKM,
					MKN,	MKO,	MKP,	MKR,	MKT,
					NKE,	NKJ,	NKK,	NKL,	NKM,
					NKN,	NKO,	NKP,	NKR,	NKT,
					OKE,	OKJ,	OKK,	OKL,	OKM,
					OKN,	OKO,	OKP,	OKR,	OKT,
					PKE,	PKJ,	PKK,	PKL,	PKM,
					PKN,	PKO,	PKP,	PKR,	PKT,
					RKE,	RKJ,	RKK,	RKL,	RKM,
					RKN,	RKO,	RKP,	RKR,	RKT,
					SKE,	SKJ,	SKK,	SKL,	SKM,
					SKN,	SKO,	SKP,	SKR,	SKT,
					TKE,	TKJ,	TKK,	TKL,	TKM,
					TKN,	TKO,	TKP,	TKR,	TKT,
					UKE,	UKJ,	UKK,	UKL,	UKM,
					UKN,	UKO,	UKP,	UKR	&
					UKT.				
Lancaster	..	..	..	..	JTB,	JTC,	JTD,	JTE,	JTF,
					JTJ,				
					KTJ,	KTC,	KTD,	KTE,	KTF,
					LTJ,	LTB,	LTC,	LTD,	LTE,
					LTF,	LTJ,	MTB,	MTC,	MTD,
					MTE,	MTF,	MTJ,	NTB,	NTC,
					NTD,	NTE,	NTF,	NTJ,	OTB,
					OTC,	OTD,	OTE,	OTF,	OTJ,
					PTB,	PTC,	PTD,	PTE,	PTF,
					PTJ,	RTB,	RTC,	RTD,	RTE,
					RTF	&	RTJ.		

Council				New Index Mark or Index Marks				
County Council of—								
Leicester	..	..	..	FAY,	FJU,	FNR,	FUT,	GAY,
				GJU,	GNR,	GUT,	HAY,	HJU,
				HNR,	HUT,	JAY,	JJU,	JNR,
				JUT,	KAY,	KJU,	KNR,	KUT,
				LAY,	LJU,	LNR,	LUT,	MAY,
				MJU,	MNR	& MUT.		
Lincolnshire—								
Parts of Holland	..	..	..	BDO,	BJL,	CDO,	CJL,	DDO,
				DJL,	EDO,	EJL,	FDO &	FJL.
Parts of Kesteven	..	..	..	CCT,	CTL,	DCT,	DTL,	ECT,
				ETL,	FCT	& FTL.		
Parts of Lindsey	..	..	..	EBE,	EFU,	EFW,	FBE,	FFU,
				FFW,	GBE,	GFU,	GFW,	HBE,
				HFU,	HFW,	JBE,	JFU,	JFW,
				KBE,	KFU	& KFW.		
London	..	..	..	KGC,	KGF,	KGH,	KGJ,	KGK,
				KGN,	KGO,	KGP,	KGT,	KGU,
				KGW,	KGX,	KGY,	KJJ,	KLA,
				KLB,	KLC,	KLD,	KLE,	KLF,
				KLH,	KLK,	KLL,	KLM,	KLN,
				KLO,	KLP,	KLR,	KLT,	KLU,
				KLW,	KLX,	KLY,	KUC,	KUL,
				KUU,	KUV,	KUW,	KXA,	KXB,
				KXC,	KXD,	KXE,	KXF,	KXH,
				KXK,	KXL,	KXM,	KXN,	KXO,
				KXP,	KXR,	KXT,	KXU,	KXV,
				KXW,	KXX,	KYY,	KYE,	KYF,
				KYH,	KYK,	KYL,	KYM,	KYN,
				KYO,	KYP,	KYR,	KYT,	KYU,
				KYV,	KYW,	KYX,	KYY,	LGC,
				LGF,	LGH,	LGJ,	LGK,	LGN,
				LGO,	LGP,	LGT,	LGU,	LGW,
				LGX,	LGY,	LJJ,	LLA,	LLB,
				LLC,	LLD,	LLE,	LLF,	LLH,
				LLK,	LLL,	LLM,	LLN,	LLO,
				LLP,	LLR,	LLT,	LLU,	LLW,
				LLX,	LLY,	LUC,	LUL,	LUU,
				LUV,	LUW,	LXA,	LXB,	LXC,
				LXD,	LXE,	LXF,	LXH,	LXK,
				LXL,	LXM,	LXN,	LXO,	LXP,
				LXR,	LXT,	LXU,	LXV,	LXW,
				LXX,	LXY,	LYE,	LYF,	LYH,
				LYK,	LYL,	LYM,	LYN,	LYO,
				LYP,	LYR,	LYT,	LYU,	LYV,
				LYW,	LYX,	LYY,	MGG,	MGF,
				MGH,	MGJ,	MGK,	MGN,	MGO,
				MGP,	MGT,	MGU,	MGW,	MXX,
				MGY,	MJJ,	MLA,	MLB,	MLC,
				MLD,	MLE,	MLF,	MLH,	MLK,
				MLL,	MLM,	MLN,	MLO,	MLP,
				MLR,	MLT,	MLU,	MLW,	MLX,
				MLY,	MUC,	MUL,	MUU,	MUV,
				MUW,	MXA,	MXB,	MXC,	MXD,
				MXE,	MXF,	MXH,	MXK,	MXL,
				MXM,	MXN,	MXO,	MXP,	MXR,
				MXT,	MXU,	MXV,	MXW,	MXX,
				MXY,	MYE,	MYF,	MYH,	MYK,
				MYL,	MYM,	MYN,	MYO,	MYP,
				MYR,	MYT,	MYU,	MYV,	MYW,
				MYX,	MYY,	NGC,	NGF,	NGH,
				NGJ,	NGK,	NGN,	NGO,	NGP,

Council County Council of— London—cont.	.. ..	New Index Mark or Index Marks
		NGT, NGU, NGW, NGX, NGY,
		NJJ, NLA, NLB, NLC, NLD,
		NLE, NLF, NLH, NLK, NLL,
		NLM, NLN, NLO, NLP, NLR,
		NLT, NLU, NLW, NLX, NLY,
		NUC, NUL, NUU, NUV, NUW,
		NXA, NXB, NXC, NXD, NXE,
		NXF, NXH, NXK, NXL, NXM,
		NXN, NXO, NXP, NXR, NXT,
		NXU, NXV, NXW, NXX, NXY,
		NYE, NYF, NYH, NYK, NYL,
		NYM, NYN, NYO, NYP, NYR,
		NYT, NYU, NYV, NYW, NYX,
		NYY, OGC, OGF, OGH, OGJ,
		OGK, OGN, OGO, OGP, OGT,
		OGU, OGW, OGX, OGY, OJJ,
		OLA, OLB, OLC, OLD, OLE,
		OLF, OLH, OLK, OLL, OLM,
		OLN, OLO, OLP, OLR, OLT,
		OLU, OLW, OLX, OLY, OUC,
		OUL, OUU, OUV, OUW, OXA,
		AXB, OXC, OXD, OXE, OXF,
		OXH, OXK, OXL, OXM, OXN,
		OXO, OXP, OXR, OXT, OXU,
		OXV, OXW, OXX, OXY, OYE,
		OYF, OYH, OYK, OYL, OYM,
		OYN, OYO, OYP, OYR, OYT,
		OYU, OYV, OYW, OYX, OYY,
		PGC, PGF, PGH, PGJ, PGK,
		PGN, PGO, PGP, PGT, PGU,
		PGW, PGX, PGY, PJJ, PLA,
		PLB, PLC, PLD, PLE, PLF,
		PLH, PLK, PLL, PLM, PLN,
		PLO, PLP, PLR, PLT, PLU,
		PLW, PLX, PLY, PUC, PUL,
		PUU, PUV, PUW, PXA, PXB,
		PXC, PXD, PXE, PXF, PXH,
		PXK, PXL, PXM, PXN, PXO,
		PXP, PXR, PXT, PXU, PXV,
		PXW, PXX, PXY, PYE, PYF,
		PYH, PYK, PYL, PYM, PYN,
		PYO, PYP, PYR, PYT, PYU,
		PYV, PYW, PYX, PYY, RGC,
		RGF, RGH, RGJ, RGK, RGN,
		RGU, RGP, RGT, RGU, RGW,
		RGX, RGY, RJJ, RLA, RLB,
		RLC, RLD, RLE, RLF, RLH,
		RLK, RLL, RLM, RLN, RLO,
		RLP, RLR, RLT, RLU, RLW,
		RLX, RLY, RUC, RUL, RUU,
		RUV, RUW, RXA, RXB, RXC,
		RXD, RXE, RXF, RXH, RXK,
		RXL, RXM, RXN, RXO, RXP,
		RXR, RXT, RXU, RXV, RXW,
		RXX, RXY, RYE, RYF, RYH,
		RYK, RYL, RYM, RYN, RYO,
		RYP, RYR, RYT, RYU, RYV,
		RYW, RYX, RYY, SGC, SGF,
		SGH, SGJ, SGK, SGN, SGO,
		SGP, SGT, SGU, SGW, SGX,
		SGY, SJJ, SLA, SLB, SLC,

<i>Council</i>				<i>New Index Mark or Index Marks</i>				
County Council of—								
London—cont.				SLD,	SLE,	SLF,	SLH,	SLK,
				SLI,	SLM,	SLN,	SLO,	SLP,
				SLR,	SLT,	SLU,	SLW,	SLX,
				SLY,	SUC,	SUP,	SUU,	SUV,
				SUW,	SXA,	SXB,	SXC,	SXD,
				SXE,	SXF,	SXH,	SXK,	SXL,
				SXM,	SKN,	SXO,	SXP,	SXR,
				SXT,	SKU,	SXV,	SXW,	SXX,
				SXY,	SYE,	SYF,	SYH,	SYK,
				SYL,	SYM,	SYN,	SYO,	SYP,
				SYR,	SYT,	SYU,	SYV,	SYW,
				SYX,	SYZ,	QB,	QD &	QE.
Middlesex				THX,	TMC,	TMD,	TME,	TMF,
				TMG,	TMH,	TMK,	TML,	TMM,
				TMP,	TMT,	TMU,	TMV,	TMX,
				TMY,	UHX,	UMC,	UMD,	UME,
				UMF,	UMG,	UMH,	UMK,	UML,
				UMM,	UMP,	UMT,	UMU,	UMV,
				UMX,	UMY,	VHX,	VMC,	VMD,
				VME,	VMF,	VMG,	VMH,	VMK,
				VML,	VMM,	VMP,	VMT,	VMU,
				VMV,	VMX,	VMY,	WHX,	WMC,
				WMD,	WME,	WMF,	WMG,	
				WMH,	WMK,	WML,	WMM,	WMP,
				WMT,	WMU,	WMV,	WMX,	WMY,
				XHX,	XMC,	XMD,	XME,	XMF,
				XMG,	XMH,	XMK,	XML,	XMM,
				XMP,	XMT,	XMU,	XMV,	XMX
				& XMY.				
Monmouth				HAX,	HWO,	JAX,	JWO,	KAX,
				KWO,	LAX,	LWO,	MAX,	
				MWO,	NAX,	NWO,	OAX,	OWO,
				PAX & PWO.				
Montgomery				AEP, BEP & CEP.				
Norfolk				HAH,	HNG,	HPW,	HVF,	JAH,
				JNG,	JPW,	JVF,	KAH,	KNG,
				KPW,	KVF,	LAH,	LNG,	LPW,
				LVF,	MAH,	MNG,	MPW,	MVF,
				NAH, NNG, NPW & NVF.				
Northampton				GBD,	GNV,	GRP,	HBD,	HNV &
				HRP.				
Northumberland				CJR,	CNL,	CTY,	DJR,	DNL,
				DTY,	EJR,	ENL,	ETY,	FJR,
				FNL & FTY.				
Nottingham				KAL,	KNN,	KRR,	KVO,	LAL,
				LNN,	LRR,	LVO,	MAL,	MNN,
				MRR,	MVO,	NAL,	NNN,	NRN,
				NVO,	OAL,	ONN,	ORR,	OVO,
				PAL,	PNN,	PRR,	PVO,	RAL,
				RNN,	RRR,	RVO,	SAL,	SNN,
				SRR & SVO.				
Oxford				DBW,	DUD,	EBW,	EUD,	FBW,
				FUD,	GBW,	GUD,	HBW,	HUD,
				JBW & JUD.				
Pembroke				JDE,	KDE,	LDE,	MDE,	NDE,
				ODE & PDE.				
Soke of Peterborough				AEG,	AFL,	BEG,	BFL,	CEG & CFL.
Salop				EAW,	ENT,	EUI,	EUX,	FAW,
				FNT,	FUJ,	FUX,	GAW,	GNT,
				GUJ,	GUX,	HAW,	HNT,	HUJ
				& HUX.				



<i>Council</i>				<i>New Index Mark or Index Marks</i>				
County Council of—								
Somerset .. .. .				KYA, KYB, KYC, KYD, LYA, LYB, LYC, LYD, MYA, MYB, MYC, MYD, NYA, NYB, NYC, NYD, OYA, OYB, OYC, OYD, PYA, PYB, PYC & PYD.				
Southampton .. .. .				GAA, GOG, GHO, GOR, GOT, GOU, HAA, HCG, HHO, HOR, HOT, HOU, JAA, JCG, JHO, JOR, JOT, JOU, KAA, KCG, KHO, KOR, KOT, KOU, LAA, LCG, LHO, LOR, LOT, LOU, MAA, MCG, MHO, MOR, MOT & MOU.				
Stafford .. .. .				ORE, ORF, PRE, PRF, RRE, RRF, SRE, SRF, TRF, URE, URF, VRE, VRF, WRE & WRF.				
East Suffolk .. .. .				HBJ, HRT, JBJ, JRT, KBJ, KRT, LBJ, LRT, MBJ, MRT, NBJ, NRT, OBJ & ORT.				
West Suffolk .. .. .				BCF, BGV, CCF, CGV, DCF, DGV, ECF & EGV.				
Surrey .. .. .				OPA, OPB, OPC, OPD, OPE, OPF, OPG, OPH, OPJ, OPK, OPL, PPA, PPB, PPC, PPD, PPE, PPF, PPG, PPH, PPJ, PPK, PPL, RPA, RPB, RPC, RPD, RPE, RPF, RPG, RPH, RPJ, RPK, RPL, SPA, SPB, SPC, SPD, SPE, SPF, SPG, SPH, SPJ, SPK, SPL, TPA, TPB, TPC, TPD, TPE, TPF, TPG, TPH, TPJ, TPK, TPL, UPA, UPB, UPC, UPD, UPE, UPF, UPG, UPH, UPJ, UPK & UPL.				
East Sussex .. .. .				EAP, ENJ, EPM, EPN, FAP, FNJ, FPM, FPN, GAP, GNJ, GPM, GPN, HAP, HNJ, HPM, HPN, JAP, JNJ, JPM, JPN, KAP, KNJ, KPM & KPN.				
West Sussex .. .. .				JBP, JPO, JPX, KBP, KPO, KPX, LBP, LPO, LPX, MBP, MPO, MPX, NBP, NPO, NPX, OBP, OPO, OPX, PBP, PPO, PPX, RBP, RPO, RPX, SBP, SPO & SPX.				
Warwick .. .. .				GAC, GNX, GUE, GWD, HAC, HNX, HUE, HWD, JAC, JNX, JUE, JWD, KAC, KNX, KUE, KWD, LAC, LNX, LUE, LWD, MAC, MNX, MUE & MWD.				
Westmorland .. .. .				AEC, AJM, BEC & BJM.				
Isle of Wight .. .. .				GDL, HDL, JDL, KDL, LDL & MDL.				
Wilts .. .. .				FAM, FHR, FMR, FMW, FWV, GAM, GHR, GMR, GMW, GWV, HAM, HHR, HMR, HMW, HWV, JAM, JHR, JMR, JMW, JWV, KAM, KHR, KMR, KMW, KVV, LAM, LHR, LMR, LMW & LWV.				

Council				New Index Mark or Index Marks			
County Council of—							
Worcester	..	..	..	..	GAB, GNP, GUY, GWP, HAB, HNP, HUY, HWP, JAB, JNP, JUY, JWP, KAB, KNP, KUY, KWP, LAB, LNP, LUY, LWP, MAB, MNP, MUY, MWP, NAB, NNP, NUY & NWP.		
East Riding of Yorkshire	..	..	..	..	EBT, EWF, FBT, FWF, GBT, GWF, HBT, HWF, JBT, JWF, KBT, KWF, LBT & LWF.		
North Riding of Yorkshire	..	..	..	..	DAJ, DPY, DVN, EAJ, EPY, EVN, FAJ, FPY, FVN, GAJ, GPY, GVN, HAJ, HPY, HVN, JAJ, JPY, JVN, KAJ, KPY & KVN.		
West Riding of Yorkshire	..	..	..	..	GWR, GWT, GWU, GWW, GWX, GWY, GYG, HWR, HWT, HWU, HWW, HWX, HWY, HYG, JWR, JWT, JWU, JWW, JWX, JWY, JYG, KWR, KWT, KWU, KWW, KWY, KYG, LWR, LWT, LWU, LWW, LWX, LWY, LYG, MWR, MWT, MWU, MWW, MWX, MWY & MYG.		
Council of the County Borough of—							
Barnsley	..	..	..	..	BHE, CHE, DHE, EHE, FHE & GHE.		
Barrow-in-Furness	..	..	..	..	AEO, BEO & CEO.		
Bath	..	..	..	..	BFB, BGL, CFB, CGL, DFB, DGL, EFB & EGL.		
Birkenhead	..	..	..	..	BBG, BCM, CBG, CCM, DBG, DCM, EBG & ECM.		
Birmingham	..	..	..	..	KOA, KOB, KOC, KOE, KOF, KOG, KOH, KOJ, KOK, KOL, KOM, KON, KOP, KOV, KOX, KVP, LOA, LOB, LOC, LOE, LOF, LOG, LOH, LOJ, LOK, LOL, LOM, LON, LOP, LOV, LOX, LVP, MOA, MOB, MOC, MOE, MOF, MOG, MOH, MOJ, MOK, MOL, MOM, MON, MOP, MOV, MOX, MVP, NOA, NOB, NOC, NOE, NOF, NOG, NOH, NOJ, NOK, NOL, NOM, NON, NOP, NOV, NOX, NVP, OOA, OOB, OOC, OOE, OOF, OOG, OOH, OOK, OOL, OOM, OON, OOP, OOV, OOX & OVP.		
Blackburn	..	..	..	..	CBV, CCB, DBV, DCB, EBV, ECB, FBV, FCB, GBV, GCB, HBV & HCB.		
Blackpool	..	..	..	..	EFR, EFV, FFR, FFV, GFR, GFV, HFR, HFV, JFR, JFV, KFR, KFV, LFR, LFV, MFR & MFV.		
Bolton	..	..	..	..	DBN, DWH, EBN, EWH, FBN, FWH, GBN, GWH, HBN, HWH, JBN & JWH.		
Bournemouth	..	..	..	..	KEL, KLJ, KRU, LEL, LLJ, LRU, MEL, MLJ, MRU, NEL, NLJ, NRU, OEL, OLJ, ORU,		

<i>Council</i>					<i>New Index Mark or Index Marks</i>
Council of the County Borough of—					
Bournemouth—cont...	..	..	..	..	PEL, PLJ, PRU, REL, RLJ, RRU, SEL, SLJ & SRU.
Bradford (Yorkshire)	..	..	..	..	GAK, GKU, GKW, GKY, HAK, HKU, HKW, HKY, JAK, JKU, JKW, JKY, KAK, K KU, KKW, KKY, LAK, LKU, LKW, LKY, MAK, MKU, MKW & MKY.
Brighton	..	..	..	..	LCD, LUF, MCD, MUF, NCD, NUF, OCD, OUF, PCD, PUF, RCD, RUF, SCD & SUF.
Bristol	..	..	..	..	LAE, LHT, LHU, LHW, LHY, MAE, MHT, MHU, MHW, MHY, NAE, NHT, NHU, NHW, NHY, OAE, OHT, OHU, OHW, OHY, PAE, PHT, PHU, PHW, PHY, RAE, RHT, RHU, RHW, RHY, SAE, SHT, SHU, SHW, SHY, TAE, THT, THU, THW, THY, UAE, UHT, UHU, UHW, UHY, VAE, VHT, VHU, VHW, VHY, WAE, WHT, WHU, WHW & WHY.
Burnley	..	..	..	..	ACW, AHG, BCW, BHG, CCW, CHG, DCW, DHG, ECW & EHG.
Burton-upon-Trent	..	..	..	..	AFA, BFA, CFA & DFA.
Bury	..	..	..	..	AEN, BEN & CEN.
Canterbury	..	..	..	..	EFN, EJG, FFN, FJG, GFN, GJG, HFN, HJG, JFN, JJG, KFN, KJG, LFN, LJG, MFN & MJG.
Cardiff	..	..	..	..	EBO, EKG, EUH, FBO, FKG, FUH, GBO, GKG, GUH, HBO, HKG, HUH, JBO, JKG, JUH, KBO, KKG, KUH, LBO, LKG, LUH, MBO, MKG, MUH, NBO, NKG & NUH.
Carlisle	..	..	..	..	DHH, EHH, FHH, GHH, HHH & JHH.
Chester	..	..	..	..	JFM, KFM, LFM, MFM, NFM, OFM, PFM & RFM.
Coventry	..	..	..	..	JDU, JHP, JKV, JRW, JVC, JWK, KDU, KHP, KKV, KRW, KVC, KWK, LDU, LHP, LKV, LRW, LVC, LWK, MDU, MHP, MKV, MRW, MVC, MWK, NDU, NHP, NKV, NRW, NVC, NWK, ODU, OHP, OKV, ORW, OVC, OWK, PDU, PHP, PKV, PRW, PVC & PWK.
Croydon	..	..	..	..	JBY, JOY, JRK, JVB, KBY, KOY, KRK, KVB, LBY, LOY, LRK, LVB, MBY, MOY, MRK, MVB, NBY, NOY, NRK, NVB, OBY, O OY, ORK, OVB, PBY, POY, PRK & PVB.
Darlington	..	..	..	..	KHN, LHN, MHN, NHN, OHN, PHN, RHN & SHN.
Derby	..	..	..	..	BCH, BRC, CCH, CRC, DCH, DRC, ECH, ERC, FCH & FRC,

*Council*  
Council of the County Borough of—

*New Index Mark or Index Marks*

Dewsbury .. .. .	AHD & BHD.
Doncaster .. .. .	FDT, GDT, HDT, JDT, KDT, LDT, MDT, NDT, ODT, PDT, RDT & SDT.
Dudley .. .. .	LFD, MFD, NFD, OFD, PFD & RFD.
Eastbourne .. .. .	AHC, AJK, BHC, BJK, CHC, CJK, DHC, DJK, EHC & EJK.
East Ham .. .. .	EHM, EHV, FHM, FHV, GHM, CHV, HHM & HHV.
Exeter .. .. .	KFJ, LFJ, MFJ, NFJ, OFJ, PFJ & RFJ.
Gateshead .. .. .	BCN, CCN, DCN, ECN & FCN.
Gloucester .. .. .	GFH, HFH, JFH, KFH, LFH, MFH, NFH & OFH.
Great Yarmouth .. .. .	AEX & BEX.
Grimsby .. .. .	BEE, BJV, CEE, CJV, DEE, DJV, EEE & EJV.
Halifax .. .. .	BCP, BJX, CCP, CJX, DCP, DJX, ECP, EJX, FCP & FJX.
Hastings .. .. .	EDY, FDY, GDY, HDY, JDY, KDY, LDY & MDY.
Huddersfield .. .. .	ECX, EVH, FCX, FVH, GCX, GVH, HCX, HVH, JCX, JVH, KCX & KVH.
Ipswich .. .. .	ADX, APV, BDX, BPV, CDX, CPV, DDX & DPV.
Kingston-upon-Hull .. .. .	LAT, LKH, LRH, MAT, MKH, MRH, NAT, NKH, NRH, OAT, OKH, ORH, PAT, PKH, PRH, RAT, RKH, RRH, SAT, SKH & SRH.
Leeds .. .. .	ONW, OUA, OUB, OUG, OUM, PNW, PUA, PUB, PUG, PUM, RNW, RUA, RUB, RUG, RUM, SNW, SUA, SUB, SUG, SUM, TNW, TUA, TUB, TUG, TUM, UNW, UUA, UUB, UUG, UUM, VNW, VUA, VUB, VUG, VUM, WNW, WUA, WUB, WUG, WUM, XNW, XUA, XUB, XUG & XUM.
Leicester .. .. .	GBC, GJF, GRY, HBC, HJF, HRY, JBC, JJF, JRY, KBC, KJF, KRY, LBC, LJF, LRY, MBC, MJF, MRY, NBC, NJF, NRY, OBC, OJF & ORY.
Lincoln .. .. .	DFE, DVL, EFE, EVL, FFE, FVL, GFE, GVL, HFE & HVL.
Liverpool .. .. .	KKA, KKB, KKC, KKD, KKF, KLV, LKA, LKB, LKC, LKD, LKF, LLV, MKA, MKB, MKC, MKD, MKF, MLV, NKA, NKB, NKC, NKD, NKF, NLV, OKA, OKB, OKC, OKD, OKF, OLV, PKA, PKB, PKC, PKD, PKF, PLV, RKA, RKB, RKC, RKD, RKF, RLV, SKA, SKB, SKC, SKD, SKF, SLV, TKA, TKB, TKC, TKD, TKF, TLV, UKA, UKB, UKC, UKD, UKF & ULV.

*Council*  
Council of the County Borough of—  
Manchester .. .. .

*New Index Mark or Index Marks*

					KNA, KNB, KNC, KND, KNE, KNF, KVM, KVR, KVV, KXJ, LNA, LNB, LNC, LND, LNE, LNF, LVM, LVR, LVU, LXJ, MNA, MNB, MNC, MND, MNE, MNF, MVM, MVR, MVU, MXJ, NNA, NNB, NNC, NND, NNE, NNF, NVM, NVR, NVU, NXJ, ONA, ONB, ONC, OND, ONE, ONF, OVM, OVR, OVU, OXJ, PNA, PNB, PNC, PND, PNE, PNF, PVM, PVR, PVU, PXJ, RNA, RNB, RNC, RND, RNE, RNF, RVM, RVR, RVU, RXJ, SNA, SNB, SNC, SND, SNE, SNF, SVM, SVR, SVU, SXJ, TNA, TNB, TNC, TND, TNE, TNF, TVM, TVR, TVU, TXJ, UNA, UNB, UNC, UND, UNE, UNF, UVM, UVR, UVU & UXJ.
Middlesbrough	..	..	..	..	ADC, AXG, BDC, BXG, CDC, CXG, DDC, DXG, EDC & EXG.
Newcastle-upon-Tyne	..	..	..	..	NBB, NTN, NVK, OBB, OTN, OVK, PBB, PTN, PVK, RBB, RTN, RVK, SBB, STN, SVK, TBB, TTN, TVK, UBB, UTN, UVK, VBB, VTN, VVK, WBB, WTN, WVK, XBB, XTN & XVK.
Newport (Mon.)	..	..	..	..	GDW, HDW, JDW, KDW, LDW & MDW.
Northampton	..	..	..	..	BNH, BVV, CNH, CVV, DNH, DVV, ENG & EVV.
Norwich	..	..	..	..	DCL, DVG, ECL, EVG, FCL, FVG, GCL, GVG, HCL & HVG.
Nottingham	..	..	..	..	MAU, MTO, MTV, NAU, NTO, NTV, OAU, OTO, OTV, PAU, PTO, PTV, RAU, RTO, RTV, SAU, STO & STV.
Oldham	..	..	..	..	FBU, GBU, HBU, JBU, KBU, LBU, MBU & NBU.
Oxford ..	..	..	..	..	OFC, OJO, OWL, PFC, PJO, PWL, RFC, RJO, RWL, SFC, SJO, SWL, TFC, TJO, TWL, UFC, UJO, UWL, VFC, VJO, VWL, WFC, WJO, WWL, XVC, XJO & XWL.
Plymouth	..	..	..	..	FCO, FDR, FJY, GCO, GDR, GJY, HCO, HDR, HJY, JCO, JDR, JJY, KCO, KDR, KJY, LCO, LDR, LJY, MCO, MDR, MJY, NCO, NDR & NJY.
Portsmouth	..	..	..	..	FBK, FRV, FTP, GBK, GRV, GTP, HBK, HRV, HTP, JBK, JRV, JTP, KBK, KRV & KTP.
Preston	..	..	..	..	CCK, CRN, DCK, DRN, ECK, ERN, FCK, FRN, GCK, GRN, HCK & HRN.
Reading	..	..	..	..	EDP, ERD, FDP, FRD, GDP, GRD, HDP, HRD, JDP, JRD, KDP, KRD, LDP, LRD, MDP, MRD, NDP & NRD.

<i>Council</i>				<i>New Index Mark or Index Marks</i>
Council of the County Borough of—				
Rochdale	..	..	..	JDK, KDK, LDK, MDK, NDK, ODK & PDK.
Rotherham	..	..	..	GET, HET & JET.
St. Helens	..	..	..	ADJ, BDJ, CDJ, DDJ, EDJ & FDJ.
Salford	..	..	..	EBA, ERJ, FBA, FRJ, GBA, GRJ, HBA, HRJ, JBA, JRJ, KBA, KRJ, LBA, LRJ, MBA & MRJ.
Sheffield	..	..	..	MWA, MWB, MWE, MWJ, NWA, NWB, NWE, NWJ, OWA, OWB, OWE, OWJ, PWA, PWB, PWE, PWJ, RWA, RWB, RWE, RWJ, SWA, SWB, SWE, SWJ, TWA, TWB, TWE, TWJ, UWA, UWB, UWE, UWJ, VWA, VWB, VWE, VWJ, WWA, WWB, WWE, WWJ, XWA, XWB, XWE & XWJ.
Smethwick	..	..	..	MHA, NHA, OHA, PHA, RHA, SHA, THA, UHA & VHA.
Southampton	..	..	..	HCR, HOW, HTR, JCR, JOW, JTR, KCR, KOW, KTR, LCR, LOW, LTR, MCR, MOW, MTR, NCR, NOW, NTR, OCR, OOW & OTR.
Southend-on-Sea	..	..	..	EHJ, EJN, FHJ, FJN, GHJ, GJN, HHJ, HJN, JHJ, JJN, KHJ & KJN.
Southport	..	..	..	HFY, HWM, JFY, JWM, KFY, KWM, LFY, LWM, MFY, MWM, NFY, NWM, OFY, OWM, PFY & PWM.
Stockport	..	..	..	EDB, EJA, FDB, FJA, GDB, GJA, HDB, HJA, JDB, JJA, KDB & KJA.
Stoke-on-Trent	..	..	..	OEH, OVT, PEH, PVT, REH, RVT, SEH, SVT, TEH, TVT, UEH, UVT, VEH, VVT, WEH, WVT, XEH & XVT.
Sunderland	..	..	..	ABR, AGR, BBR, BGR, CBR, CGR, DBR, DGR, EBR, EGR, FBR & FGR.
Swansea	..	..	..	KCY, KWN, LCY, LWN, MCY, MWN, NCY, NWN, OCY, OWN, PCY, PWN, RCY, RWN, SCY, SWN, TCY, TWN, UCY & UWN.
Tynemouth	..	..	..	AFT, BFT, CFT, DFT, EFT & FFT.
Wakefield	..	..	..	DHL, EHL, FHL, GHL & HHL.
Wallasey	..	..	..	CHF, DHF, EHF & FHF.
Walsall	..	..	..	MDH, NDH, ODH, PDH, RDH, SDH, TDH, UDH, VDH & WDH.
Warrington	..	..	..	GED, HED, JED, KED, LED, MED, NED & OED.
West Bromwich	..	..	..	EEA, FEA, GEA, HEA, JEA, KEA, LEA & MEA.
West Ham	..	..	..	DAN, DJD, EAN, EJD, FAN, FJD, GAN, GJD, HAN & HJD.
West Hartlepool	..	..	..	AEF & BEF.
Wigan	..	..	..	AEK, AJP, BEK, BJP, CEK, CJP, DEK, DJP, EEK, EJP, FEK & FJP.
Wolverhampton	..	..	..	GDA, GJW, GUK, HDA, HJW, HUK, JDA, JJW, JUK, KDA, KJW, KUK, LDA, LJW, LUK,

<i>Council</i>					<i>New Index Mark or Index Marks</i>
Council of the County Borough of—					
Wolverhampton—cont.	..	..	..	..	MDA, MJW, MUK, NDA, NJW, NUK, ODA, OJW, OUK, PDA, PJW & PUK.
Worcester	..	..	..	..	CFK, DFK, EFK, FFK, GFK & HFK.
York	..	..	..	..	EDN, EVY, FDN, FVY, GDN, GVY, HDN, HVY, JDN & JVY.
County Council of—					
Aberdeen	..	..	..	..	EAV, ESA, FAV, FSA, GAV, GSA, HAV, HSA, JAV, JSA, KAV & KSA.
Angus	..	..	..	..	ESR, FSR, GSR, HSR, JSR & KSR.
Ayr	..	..	..	..	CAG, CCS, CSD, DAG, DCS, DSD, EAG, ECS, ESD, FAG, FCS, FSD, GAG, GCS, GSD, HAG, HCS & HSD.
Berwick	..	..	..	..	ASH & BSH.
Dumfries	..	..	..	..	HSM, JSM, KSM, LSM, MSM, NSM, OSM, PSM & RSM.
Fife	..	..	..	..	GFG, GSP, HFG, HSP, JFG, JSP, KFG, KSP, LFG, LSP, MFG, MSP, NFG, NSP, OFG, OSP, PFG & PSP.
Inverness	..	..	..	..	CST, DST, EST, FST & GST.
Kirkcudbright	..	..	..	..	ASW.
Lanark	..	..	..	..	EVA, EVD, FVA, FVD, GVA, GVD, HVA, HVD, JVA, JVD, KVA, KVD, LVA, LVD, MVA & MVD.
Midlothian	..	..	..	..	ASY, BSY, CSY, DSY, ESY & FSY.
Moray	..	..	..	..	ASO, BSO & CSO.
Perth	..	..	..	..	CES, CGS, DES, DGS, EES, EGS, FES & FGS.
Renfrew	..	..	..	..	EHS, FHS, GHS, HHS, HJS & KHS.
Roxburgh	..	..	..	..	AKS, BKS, CKS, DKS & EKS.
Stirling	..	..	..	..	CMS, CWG, DMS, DWG, EMS, EWG, FMS, FWG, GMS & GWG.
Wigtown	..	..	..	..	AOS.
Council of the Burgh of—					
Aberdeen	..	..	..	..	DRG, DRS, ERG, ERS, FRG, FRS, GRG, GRS, HRG, HRS, JRG & JRS.
Dundee	..	..	..	..	ATS, AYJ, BTS, BYJ, CTS, CYJ, DTS, DYJ, ETS, EYJ, FTS & FYJ.
Edinburgh	..	..	..	..	GFS, GSC, GSF, GSG, GWS, HFS, HSC, HSF, HSG, HWS, JFS, JSC, JSF, JSG, JWS, KFS, KSC, KSF, KSG, KWS, LFS, LSC, LSF, LSG, LWS, MFS, MSC, MSF, MSG, MWS, NFS, NSC, NSF, NSG, NWS, OFS, OSC, OSF, OSG, OWS, PFS, PSC, PSF, PSG & PWS.
Glasgow	..	..	..	..	GGA, GGB, GGD, GGE, GGG, GUS, GYS, HGA, HGB, HGD, HGE, HGG, HUS, HYS, JGA,



*Council*  
Council of the Burgh of—  
Glasgow—cont.   ..   ..   ..

*New Index Mark or Index Marks*

JGB,	JGD,	JGE,	JGG,	JUS,
JYS,	KGA,	KGB,	KGD,	KGE,
KGG,	KUS,	KYS,	LGA,	LGB,
LGD,	LGE,	LGG,	LUS,	LYS,
MGA,	MBG,	MGD,	MGE,	MGG,
MUS,	MYS,	NGA,	NGB,	NGD,
NGE,	NGG,	NUS,	NYS,	OGA,
OGB,	OGD,	OGE,	OGG,	OUS
& OYS. [1186]				

## ORDER IN COUNCIL AMENDING REGULATION 72 OF THE DEFENCE (GENERAL) REGULATIONS, 1939

*S. R. & O., 1946, No. 1749*

*October 29, 1946*

Paragraph 6 of Regulation 72 was revoked by s. 1 of the Road Traffic (Driving Licences) Act, 1947 (10 & 11 Geo. 6, c. 8), without prejudice to provisional licences in force.

His Majesty, in pursuance of section three of the Supplies and Services (Transitional Powers) Act, 1945, and of all other powers enabling Him in that behalf is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, that at the end of paragraph (6) of Regulation seventy-two of the Defence (General) Regulations, 1939, there shall be added the following words:—

“Provided that this paragraph shall not apply in relation to any application for the grant of a licence to drive a motor vehicle under Part I of the Road Traffic Act, 1930, made on or after the first day of November, nineteen hundred and forty-six, by—

- (a) a person who has never held such a licence or a driver's licence under the Motor Car Act, 1903, authorising him to drive vehicles of the class or description which he would be authorised by the licence applied for to drive, or who has only held such a licence as a provisional licence granted for the purpose of enabling him to learn to drive with a view to passing a test, or
- (b) a person who is suffering from any such disease or physical disability as is mentioned in subsection (1) of section five of the Road Traffic Act, 1930.” [1187]

\*             \*             \*             \*             \*

### EXPLANATORY NOTE

*(This Note is not part of the Order but is intended to indicate its general purport)*

Paragraph (6) of Regulation seventy-two of the Defence (General) Regulations, 1939, makes emergency provision as to provisional licences to drive motor vehicles. The normal code as to the grant of such licences provides for the grant of licences for three months under subsection (3) of section five of the Road Traffic Act, 1930, either—

- (a) to an applicant who is subject to physical disability of certain kinds with a view to his passing a test under that section; or
- (b) by virtue of section 6 of the Road Traffic Act, 1934, to an applicant for a licence to drive a given class of vehicle who has neither passed a driving test nor held a licence to drive that class of vehicle before the 1st April, 1934, with a view to his passing a test for the purposes of that section.

The emergency provision enables such applicants to be granted provisional licences for twelve months, for driving for any purpose and not only with a view to passing a test.

*The amendment of paragraph (6) made by this Order terminates the emergency provision, and restores the normal code, as regards new applicants (i.e. those who have never held any licence at all to drive a class of vehicle covered by the application or who have held only a provisional licence with a view to passing a test), and as regards applicants subject to physical disability of the relevant kinds.*

## THE TRAFFIC COMMISSIONERS (REDUCTION OF NUMBER) (REVOCATION) ORDER, 1946

*S. R. & O., 1946, No. 1750*

*October 29, 1946*

His Majesty, in pursuance of section four of the Chartered and Other Bodies (Temporary Provisions) Act, 1939, and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered as follows :—

1. So much of Article 2 of the Traffic Commissioners (Reduction of Number) Order, 1940, as suspends the operation of subsection (4) of section sixty-three of the Road Traffic Act, 1930 (which provides for nominations to panels in connection with the appointment of traffic commissioners), is hereby revoked as from the date of this Order. [1188]

2. The Traffic Commissioners (Reduction of Number) Order, 1940, so far as it is not revoked by the preceding Article, is hereby revoked as from the first day of January, nineteen hundred and forty-seven. [1189]

3. This Order may be cited as the Traffic Commissioners (Reduction of Number) (Revocation) Order, 1946. [1190]

\* \* \* \* \*

### EXPLANATORY NOTE

*(This Note is not part of the Order, but is intended to indicate its general purport)*

*The Traffic Commissioners (Reduction of Number) Order, 1940, reduced from three to one the number of Traffic Commissioners appointed for any traffic area under section 63 of the Road Traffic Act, 1930. It also suspended the operation of subsection (4) of that section which provides for the nomination by local authorities of members of panels from which two of the Commissioners for any area are appointed by the Minister of Transport. Regulations made under subsection (9) of section 63 provide that nominations to panels shall be made to take effect from 15th November in each year.*

*Article 1 of this Order terminates the suspension of subsection (4) of section 63 so that nominations to panels will be required to be made by 15th November this year.*

*Article 2 of the Order revokes the rest of the 1940 Order as from 1st January, 1947, thus restoring the normal operation of section 63.*

## THE MOTOR VEHICLES (AUTHORISATION OF SPECIAL TYPES) (AMENDMENT) (NO. 3) ORDER, 1946

*S. R. & O., 1946, No. 1978*

*November 23, 1946*

Whereas by section 3 of the Road Traffic Act, 1930, the Minister of Transport (hereinafter referred to as "the Minister") may by Order authorise,

subject to such restrictions and conditions as may be specified in the Order, the use on roads of special motor vehicles or trailers or special types of motor vehicles or trailers which are constructed either for special purposes or for tests or trials;

Now, therefore, the Minister in exercise of the powers so conferred upon him and of all other powers enabling him in that behalf, hereby makes the following Order :—

1. This Order may be cited as “The Motor Vehicles (Authorisation of Special Types) (Amendment) (No. 3) Order, 1946,” and shall come into force forthwith. [1191]

2. The Minister authorises the use on roads of the vehicles specified in the Schedule hereto, notwithstanding that such vehicles do not comply with the requirements of Regulation 32 of the Motor Vehicles (Construction and Use) Regulations, 1941, as amended by the Motor Vehicles (Construction and Use) (Amendment) (No. 3) Regulations, 1946 (which restrict the overall width of heavy motor cars), subject to the condition that such vehicles shall be operated only by or on behalf of the Board of Trade. [1192]

3. This Order shall cease to have effect on the 31st day of December, 1947, without prejudice however to the validity of anything previously done thereunder. [1193]

4. The Interpretation Act, 1889, shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament. [1194]

\* \* \* \* \*

#### SCHEDULE

20 vehicles known as Sulphuric Acid Tank Wagons the index marks and registration numbers of which are GXX 710 to GXX 729 inclusive. [1195]

### THE MOTOR VEHICLES (CONSTRUCTION AND USE) (AMENDMENT) (NO. 4) REGULATIONS, 1946

*S. R. & O., 1946, No. 2017*

*November 29, 1946*

See note to S. R. & O., 1946, No. 402, p. 457, *ante*.

Whereas in exercise of the powers conferred on him by section 30 of the Road Traffic Act, 1930, the Minister of Transport (hereinafter referred to as “the Minister”) made the Motor Vehicles (Construction and Use) Regulations, 1941 (hereinafter referred to as “the Principal Regulations”), paragraph (1) of Regulation 50 of which prescribes the requirements as to brakes on trailers.

And whereas sub-paragraphs (i) to (iii) of paragraph (2) of the said Regulation 50 specify certain types of trailer which are exempted from the requirements of the said paragraph (1):

And whereas it is expedient that the Principal Regulations should be amended to provide for the exemption from the requirements of the said paragraph (1) of agricultural trailers constructed before 1st July, 1947, subject to the conditions hereinafter mentioned, and that the Motor Vehicles (Construction and Use) (Amendment) (No. 4) Provisional Regulations, 1942, (which made similar provision as regards all agricultural trailers for the period during which the Emergency Powers (Defence) Acts, 1939 and 1940, were in force) should be formally revoked:

Now, therefore, the Minister in exercise of the powers aforesaid and of all other powers enabling him in that behalf, hereby makes the following Regulations :—

1. These Regulations may be cited as “ The Motor Vehicles (Construction and Use) (Amendment) (No. 4) Regulations, 1946 ” and shall come into force forthwith. [1196]

2. The Motor Vehicles (Construction and Use) (Amendment) (No. 4) Provisional Regulations, 1942, are hereby revoked. [1197]

3. Regulation 50 of the Principal Regulations shall, until 1st January, 1952, have effect as though the following sub-paragraph were added to paragraph (2) thereof :—

“ (iv) any agricultural trailer constructed before 1st July, 1947, drawn by a motor tractor if :—

(a) its laden weight does not exceed 4 tons ;

(b) it is the only trailer so drawn ; and

(c) it is not drawn at a speed exceeding 10 miles per hour.” [1198]

4. The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [1199]

\* \* \* \* \*

## THE MOTOR VEHICLES (CONSTRUCTION AND USE) (AMENDMENT) (NO. 5) REGULATIONS, 1946

*S. R. & O., 1946, No. 2130*

*December 13, 1946*

See note to S. R. & O., 1946, No. 402, p. 457, *ante*.

Whereas in exercise of the powers conferred upon him by section 30 of the Road Traffic Act, 1930, the Minister of Transport (hereinafter called “ the Minister ”) made the Motor Vehicles (Construction and Use) Regulations, 1941 (hereinafter called “ the Principal Regulations ”) ;

And whereas, for the purpose of extending from time to time the period prescribed by the Principal Regulations within which certain motor vehicles and trailers are required to comply with certain requirements as to servo-braking systems, the diameter of wheels, the fitting of pneumatic tyres, and brakes not being rendered ineffective by the non-rotation of the engine, those Regulations have been amended by the Motor Vehicles (Construction and Use) (Amendment) (No. 2) Provisional Regulations, 1941, the Motor Vehicles (Construction and Use) (Amendment) (No. 6) Provisional Regulations, 1942, the Motor Vehicles (Construction and Use) (Amendment) (No. 3) Provisional Regulations, 1943, the Motor Vehicles (Construction and Use) (Amendment) (No. 4) Provisional Regulations, 1943, the Motor Vehicles (Construction and Use) (Amendment) Provisional Regulations, 1944, and the Motor Vehicles (Construction and Use) (Amendment) Regulations, 1946 ;

And whereas it is expedient that such motor vehicles and trailers should be exempted from compliance with those requirements :

Now, therefore, the Minister in exercise of the powers aforesaid and of all other powers enabling him in that behalf, hereby makes the following Regulations :—

1. These Regulations may be cited as “ The Motor Vehicles (Construction and Use) (Amendment) (No. 5) Regulations, 1946 ”, and shall come into force on the first day of January, 1947. [1200]

2. The Principal Regulations as so amended shall have effect as though :

- (1) in Regulation 10 thereof the words " and as from 1st January, 1947, every motor vehicle " were omitted,
- (2) in Regulation 12, the first proviso to Regulation 35 and the first proviso to Regulation 40 thereof the words " until 1st January, 1947 " were omitted,
- (3) in paragraph (3) of Regulation 30, paragraph (3) of Regulation 34 and paragraph (3) of Regulation 39 thereof the words " and as from 1st January, 1947, in the case of all vehicles " were omitted,
- (4) in paragraph (3) of Regulation 50 thereof the words " and as from 1st January, 1947, in the case of all trailers " were omitted, and
- (5) in Regulation 52 thereof the words " and as from 1st January, 1947, the wheels of every trailer so drawn shall be so equipped " were omitted. [1201]

3. The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [1202]

\* \* \* \* \*

### EXPLANATORY NOTE

*(This Note is not part of the Regulations, but is intended to indicate their general purport)*

*The purpose of these Regulations is to exempt motor vehicles first registered under the Roads Act, 1920, and trailers constructed, before certain specified dates from complying with certain requirements of the Motor Vehicles (Construction and Use) Regulations, 1941, in regard to the operation of braking systems, the diameter of wheels and the fitting of pneumatic tyres.*

## THE MOTOR VEHICLES (CONSTRUCTION AND USE) (TRACK LAYING VEHICLES) (AMENDMENT) (NO. 2) REGULATIONS, 1946

S. R. & O., 1946, No. 2131

December 13, 1946

Whereas in exercise of the powers conferred upon him by section 30 of the Road Traffic Act, 1930, the Minister of Transport (hereinafter called "the Minister") made the Motor Vehicles (Construction and Use) (Track Laying Vehicles) Regulations, 1941 (hereinafter called "the Principal Regulations") ;

And whereas, for the purpose of extending from time to time the period prescribed by the Principal Regulations within which certain motor vehicles and trailers are required to comply with certain requirements as to servo-braking systems, the diameter of wheels and the fitting of pneumatic tyres, those Regulations have been amended by the Motor Vehicles (Construction and Use) (Amendment) (No. 2) Provisional Regulations, 1941, the Motor Vehicles (Construction and Use) (Amendment) (No. 6) Provisional Regulations, 1942, the Motor Vehicles (Construction and Use) (Amendment) (No. 3) Provisional Regulations, 1943, the Motor Vehicles (Construction and Use) (Track Laying Vehicles) (Amendment) Provisional Regulations, 1944, and

the Motor Vehicles (Construction and Use) (Track Laying Vehicles) (Amendment) Regulations, 1946 ;

And whereas it is expedient that such motor vehicles and trailers should be exempted from compliance with those requirements :

Now, therefore, the Minister in exercise of the powers aforesaid and of all other powers enabling him in that behalf, hereby makes the following Regulations :—

1. These Regulations may be cited as “ The Motor Vehicles (Construction and Use) (Track Laying Vehicles) (Amendment) (No. 2) Regulations, 1946 ”, and shall come into force on the first day of January, 1947. [1203]

2. The Principal Regulations as so amended shall have effect as though :

- (1) in Regulation 10 thereof the words “ and as from 1st January, 1947, every motor vehicle ” were omitted,
- (2) in the proviso to Regulation 12, the first proviso to Regulation 30 and the first proviso to Regulation 32 thereof the words “ until 1st January, 1947 ” were omitted, and
- (3) in Regulation 38 thereof the words “ and as from 1st January, 1947, the wheels of every trailer so drawn shall be so equipped ” were omitted. [1204]

3. The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [1205]

\* \* \* \* \*

### EXPLANATORY NOTE

*(This Note is not part of the Regulations, but is intended to indicate their general purport)*

*The purpose of these Regulations is to exempt track laying motor vehicles first registered under the Roads Act, 1920, and trailers constructed, before certain specified dates, from complying with certain requirements of the Motor Vehicles (Construction and Use) (Track Laying Vehicles) Regulations, 1941, in regard to servo-braking systems, the diameter of wheels and the fitting of pneumatic tyres.*

## THE MOTOR VEHICLES (DRIVING LICENCES) (AMENDMENT) PROVISIONAL REGULATIONS, 1946

P. R. & O., 1946

November 1, 1946

Whereas in exercise of the powers conferred upon him by section 30 of the Road Traffic Act, 1930, and section 6 of the Road Traffic Act, 1934, the Minister of Transport (hereinafter referred to as “ the Minister ”) made the Motor Vehicles (Driving Licences) Regulations, 1937 (hereinafter referred to as “ the Principal Regulations ”), and the Principal Regulations have been amended by the Motor Vehicles (Driving Licences) (Amendment) Provisional Regulations, 1940, dated May 29, 1940, and the Motor Vehicles (Driving Licences) (Amendment) Provisional Regulations, 1942, dated April 27, 1942.

And whereas it is expedient that the Principal Regulations should be further amended in manner hereinafter appearing.

Now, therefore, the Minister, in exercise of the powers conferred upon him as aforesaid and of all other powers enabling him in that behalf, hereby makes the following Regulations and certifies in accordance with section 2 of the Rules Publication Act, 1893, that on account of urgency these Regulations should come into immediate operation.

1. These Regulations may be cited as "The Motor Vehicles (Driving Licences) (Amendment) Provisional Regulations, 1946" and shall come into operation forthwith. [1206]

2. The Principal Regulations shall have effect as though

- (a) in Regulation 10 the words "the Clerk to the Traffic Commissioners" were substituted for the words "the Supervising Examiner";
- (b) in Regulation 14 "7s. 6d." were substituted for "5s.";
- (c) in Regulation 16 the following paragraph were inserted after paragraph (2):—

"(3). Where application is made for a licence on or after the 1st day of November, 1946, by a person who has never held a licence authorising him to drive vehicles of the class or description which he would be authorised by the licence applied for to drive, or has only held such a licence as a provisional licence granted for the purpose of enabling him to learn to drive with a view to passing a test, or who is suffering from any such disease or disability as is referred to in subsection (1) of section 5 of the Road Traffic Act, 1930, a provisional licence shall be granted only subject to the condition that until the holder thereof has passed the appropriate test

- (a) he shall, except in the case of a vehicle which is not constructed or adapted to carry more than one person, use it only when under the supervision of the holder of a licence other than a provisional licence who has been the holder of a licence for at least two years or has passed a test under section 6 of the Act of 1934, who shall be present in the vehicle with him; provided that for the purpose of this sub-paragraph a motor bicycle shall not be deemed to be constructed or adapted to carry more than one person unless it has a sidecar constructed for the carriage of a passenger attached;
- (b) he shall not, in the case of a motor bicycle to which a sidecar is not attached, carry a passenger other than the holder of a licence other than a provisional licence who has been the holder of a licence for at least two years or has passed a test under section 6 of the Act of 1934;
- (c) the vehicle while being driven by him shall clearly display in a conspicuous position on the front and on the back of the vehicle a distinguishing mark in the form set out in the Seventh Schedule to these Regulations.

In this paragraph the term "licence" includes a driver's licence under the Motor Car Act, 1903." [1207]

3. The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [1208]



## EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport)

The purpose of these Regulations is—

1. to provide that applications for driving tests shall be made in future to the Clerk to the Traffic Commissioners for the Area in which the applicant resides instead of to the Supervising Examiner for that Area ;
2. that in those cases where a fee of 5s. is payable in respect of a driving test, i.e. where the test relates to vehicles other than invalid carriages, mowing machines, agricultural tractors or vehicles controlled by pedestrians, it shall be increased to 7s. 6d. ;
3. to reinstate in the case of a provisional licence granted on or after 1st November, 1946, to an applicant who has never previously held a licence to drive vehicles of the class concerned or has only held a provisional licence with a view to passing a test or who is suffering from a disability, the conditions subject to which a provisional licence was required to be granted by paragraph 3 of Regulation 16 of the Motor Vehicles (Driving Licences) Regulations, 1937, which was revoked by the Motor Vehicles (Driving Licences) (Amendment) Provisional Regulations, 1940.

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## CASES

*Street Traffic—Hackney carriages—Motor cars—Plying for hire without being licensed—Vehicles standing in public street—Hire and payment made in adjacent street—No contract with, and no payment to, driver of vehicle—Metropolitan Public Carriage Act, 1869 (c. 115), s. 7.*

The appellant had an office in London with a sign, "Cars for hire," displayed on the outside. Several motor cars belonging to the appellant were standing in the street adjacent to the office, and, on October 11, 1944, several persons were seen to enter the office for the purpose of paying for the hire of any one of the cars in which later they were driven away. On a charge of being the owner of unlicensed hackney carriages plying for hire, contrary to the Metropolitan Public Carriage Act, 1869, s. 7, the appellant was convicted and fined by the metropolitan police magistrate. The appellant appealed and a case was stated for the opinion of the High Court :—

*Held* : although in each case no contract was entered into with the driver of the car and no payment made to him, there was a plying for hire of the cars standing in the public street.—GILBERT v. MCKAY, [1946] 1 All E. R. 458 ; 174 L. T. 196 ; 110 J. P. 186 ; 62 T. L. R. 226 ; 90 Sol. Jo. 201 ; 44 L. G. R. 63. [1209]

*Street and Aerial Traffic—Motor vehicle—"Driver"—Steersman of towed broken-down vehicle—Road Traffic Act, 1930 (c. 43), ss. 1, 4 (1), 11 (1), 121—Road Traffic (Driving Licences) Act, 1936 (c. 23), s. 1 (1)—Motor Vehicles (Construction and Use) Regulations, 1941 (S. R. & O., 1941, No. 398), Reg. 82 (2).*

The steersman of a towed vehicle is not the driver of the vehicle within the meaning of the Road Traffic Act, 1930.

The respondent, who was steering a broken-down motor vehicle which was being towed by another motor vehicle, was charged, under the Road Traffic Act, 1930, s. 11, with driving a motor vehicle in a manner which was dangerous to the public. The magistrates came to the conclusion that the respondent was not the driver of a mechanically-propelled vehicle within the meaning of the Act, and dismissed the information. It was contended on behalf of the appellant that the respondent was a driver within the meaning of the Act by virtue of s. 121 of the Act, which provides that "driver," where a separate person acts as steersman on a motor vehicle, includes that person as well as any other person engaged in the driving of the vehicle, and that the expression "drive" shall be construed accordingly:—

*Held*: s. 121 of the Act did not apply because the provision in that section contemplated two persons being in charge of the same vehicle, e.g. a steam wagon, and the magistrates were right in finding that the respondent was not acting as a driver within the meaning of the Act and in dismissing the information.—*WALLACE v. MAJOR*, [1946] K. B. 473; [1946] 2 All E. R. 87; 115 L. J. K. B. 402; 175 L. T. 84; 110 J. P. 231; 62 T. L. R. 406; 90 Sol. Jo. 331; 44 L. G. R. 237, D. C. [1210]

*Street and Aerial Traffic—Motor vehicle—Driving while under influence of drink—Disqualification from holding licence—"Special reasons" for refraining from disqualification—Tests to be applied—Road Traffic Act, 1930 (c. 43), s. 15 (2).*

The respondent, a lorry driver, pleaded guilty before a court of summary jurisdiction to charges of driving a motor vehicle while under the influence of drink to such an extent as to be incapable of having proper control of the vehicle, contrary to s. 15 of the Road Traffic Act, 1930, and driving a motor vehicle recklessly and in a manner which was dangerous to the public, contrary to s. 11 of the Act. On the first charge the justices imposed a fine of £20 and ordered his driving licence to be endorsed, but they refrained from ordering that he should be disqualified from holding a driving licence on the grounds that "special reasons" existed within s. 15 (2) of the Act in that they had no knowledge of any previous motoring convictions against him, the retention of his licence was essential for obtaining his livelihood, and, further, that they had imposed a substantial fine for his offence and in assessing that penalty they took into account that they did not intend to disqualify him. The second charge was dismissed under the Probation of Offenders Act:—

*Held*: (i) a "special reason" within the exception was one which was special to the facts which constituted the offence, and not one which was special to the offender as distinguished from the offence;

(ii) accordingly, no consideration of financial hardship, or of the offender being before the court for the first time, or that he had driven for a great number of years without complaint, could be regarded as a "special reason," and there was nothing in the Act to entitle the justices to substitute a more severe penalty as the price of refraining from disqualifying an offender;

(iii) none of the reasons stated by the justices, therefore, was a "special reason" within the meaning of the section and the case should be remitted to them with that intimation and with a direction that they should impose a disqualification for at least 12 months.

*Per Lord Goddard, C.J.*: In cases under s. 35 of the Act of 1930, the test to be applied in determining what is a "special reason" is no different from that which applies in cases under ss. 11 and 15 of the Act.—*WHITTALL v. KIRBY*, [1947] K. B. 194; [1946] 2 All E. R. 552; [1947] L. J. R. 234; 175 L. T. 449; 111 J. P. 1; 62 T. L. R. 696; 90 Sol. Jo. 571; 45 L. G. R. 8, D. C. [1211]

# STATUTES AND STATUTORY RULES AND ORDERS

STATUTES :—

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## STATUTES

### STATUTORY INSTRUMENTS ACT, 1946

(9 &amp; 10 Geo. 6, c. 36)

#### PRELIMINARY NOTE

This Act repeals the Rules Publication Act, 1893 (18 Halsbury's Statutes 1016), while re-introducing certain useful provisions of that Act, and, further, seeks to remove certain anomalies in connection with delegated legislation to which attention had been drawn by the Select Committee on Statutory Rules and Orders in a Special Report published in October, 1944, as House of Commons Paper No. 113. It was stated on March 31, 1947, that the Act is intended to be brought into operation at the beginning of the next parliamentary session (435 H. of C. Official Report 265).

The Select Committee, or Scrutinising Committee, drew attention, in the above Special Report on delegated legislation, to certain anomalies in the machinery of Parliamentary control and of rules publication. The first point to which they referred was the lack of uniformity in the periods for which regulations, rules or orders had to be laid before Parliament, and a similar lack of uniformity in reckoning the various periods. They considered that there should be a uniform period and that this period should not run when the House was not in Session. The second point of criticism was the vagueness of the requirement that regulations should be laid before Parliament "as soon as may be" after they had been made, the Committee considering that there should be an obligation to lay them before Parliament within a definite number of days after they had been made. The third point to which the Committee drew attention was the absence of any principle for determining when affirmative resolution procedure and when negative resolution procedure should be adopted. The first two points of criticism have been met in this Act, but the third point has not been met. In connection with the third point, the Solicitor-General said, in moving the Second Reading of the Bill (415 H. of C. Official Report 1103), that the Bill did not attempt to meet the third criticism, because Parliament must, in its choice of affirmative or negative procedure, depend upon the actual type of regulation which was in question and the actual type of enactment under which the regulation was made.

The Act introduces a new term of "statutory instrument", which s. 1 defines by providing that where by this Act or any Act passed after the commencement of this Act power to make, confirm or approve orders, rules, regulations or other subordinate legislation is conferred on His Majesty in Council or on any Minister of the Crown then, if the power is expressed, in the case of a power conferred on His Majesty, to be exercisable by Order in Council, or in the case of a power conferred on a Minister of the Crown, to be exercisable by statutory instrument, any document by which that power is exercised shall be known as a statutory instrument. Sub-s. (2) of the section applies the new term to documents which are statutory rules within the meaning of the Rules Publication Act, 1893.

S. 2 re-introduces the provisions of the Rules Publication Act, 1893 (*supra*) as to numbering, printing, publication and citation of statutory instruments. S. 3 provides for the publication by the Stationery Office of lists showing the date upon which every statutory instrument printed and sold by the King's printer was first issued by that office, and further provides that in any legal proceedings a copy of a published list purporting to bear the imprint of the King's Printer shall be received in evidence as a true copy, and an entry therein shall be conclusive evidence of the date on which any statutory instrument was first issued by the Stationery Office. Sub-s. (2) of the section then provides that in any proceedings for contravention

of any such statutory instrument it shall be a defence to prove that the instrument had not been issued by the Stationery Office at the date of the alleged contravention, unless it is proved that at that date reasonable steps had been taken to bring the purport of the instrument to the notice of the public, or of persons likely to be affected by it, or of the person charged.

S. 4 provides that where any statutory instrument is required to be laid before Parliament after being made, a copy of the instrument is to be laid before each House of Parliament before it comes into operation. There is a proviso to the effect that if it is essential that an instrument should come into operation before copies can be laid before Parliament, *e.g.*, during a Recess, the instrument may so come into operation, but notification of the fact, and of the reason for not laying copies before Parliament beforehand, must be given to the Lord Chancellor and to the Speaker so that they may notify their respective Houses. This section meets the second criticism of the Select Committee, namely, as to the time within which an instrument should be laid before Parliament.

S. 5 prescribes a standard period of forty days from the laying of a statutory instrument before Parliament, as the period within which action must be taken by way of negative resolution to annul the instrument. It is to be noted that this section does not apply to instruments which are subject to affirmative resolution procedure. S. 6 applies the standard period of forty days in respect of statutory instruments of which drafts have to be laid before Parliament, and s. 7 provides that in reckoning any period for the purposes of ss. 5 and 6 no account is to be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days. Ss. 5, 6 and 7 therefore meet the first of the Select Committee's criticisms.

S. 8 empowers the Treasury by statutory instrument to make regulations for the purposes of the Act. S. 9 provides for extending the Act to cases where a Minister is empowered under an Act passed before the commencement of this Act to confirm or approve orders, rules, regulations or other subordinate legislation, and it also provides for the modification of certain provisions of the Act in their application to statutory instruments made under earlier Acts. S. 10 provides for the commencement of the Act, s. 11 deals with its interpretation, and s. 12 repeals the Rules Publication Act, 1893 (18 Halsbury's Statutes 1016), while re-enacting s. 3 (3) thereof (*ibid.* 1018). [1212]

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*An Act to repeal the Rules Publication Act, 1893, and to make further provision as to the instruments by which statutory powers to make orders, rules, regulations and other subordinate legislation are exercised.* [1213]

[26th March, 1946.]

**1. Definition of "Statutory Instrument".**—(1) Where by this Act or any Act passed after the commencement of this Act power to make, confirm

or approve orders, rules, regulations or other subordinate legislation is conferred on His Majesty in Council or on any Minister of the Crown then, if the power is expressed—

- (a) in the case of a power conferred on His Majesty, to be exercisable by Order in Council ;
- (b) in the case of a power conferred on a Minister of the Crown, to be exercisable by statutory instrument,

any document by which that power is exercised shall be known as a “statutory instrument” and the provisions of this Act shall apply thereto accordingly. [1214]

(2) Where by any Act passed before the commencement of this Act power to make statutory rules within the meaning of the Rules Publication Act, 1893, was conferred on any rule-making authority within the meaning of that Act, any document by which that power is exercised after the commencement of this Act shall, save as is otherwise provided by regulations made under this Act, be known as a “statutory instrument” and the provisions of this Act shall apply thereto accordingly. [1215]

*Effect of section.*—This section introduces a new term of “statutory instrument” in place of the term “statutory rule”, which is used in the Rules Publication Act, 1893, *infra*.

*Rules Publication Act, 1893.*—18 Halsbury's Statutes 1016. This Act is repealed by s. 12, *post*. As to the application of the present Act where power is conferred by an earlier Act to confirm or approve orders, rules, regulations or other subordinate legislation, see s. 9, *post*.

**2. Numbering, printing, publication and citation.**—(1) Immediately after the making of any statutory instrument, it shall be sent to the King's printer of Acts of Parliament and numbered in accordance with regulations made under this Act, and except in such cases as may be provided by any Act passed after the commencement of this Act or prescribed by regulations made under this Act, copies thereof shall as soon as possible be printed and sold by the King's printer of Acts of Parliament. [1216]

(2) Any statutory instrument may, without prejudice to any other mode of citation, be cited by the number given to it in accordance with the provisions of this section, and the calendar year. [1217]

*Effect of section.*—This section re-introduces the provisions of s. 3 (1) and (2) of the Rules Publication Act, 1893 (18 Halsbury's Statutes 1017, 1018), as to numbering, printing, publication and citation of statutory instruments.

**3. Supplementary provisions as to publication.**—(1) Regulations made for the purposes of this Act shall make provision for the publication by His Majesty's Stationery Office of lists showing the date upon which every statutory instrument printed and sold by the King's printer of Acts of Parliament was first issued by that office ; and in any legal proceedings a copy of any list so published purporting to bear the imprint of the King's printer shall be received in evidence as a true copy, and an entry therein shall be conclusive evidence of the date on which any statutory instrument was first issued by His Majesty's Stationery Office. [1218]

(2) In any proceedings against any person for an offence consisting of a contravention of any such statutory instrument, it shall be a defence to prove that the instrument had not been issued by His Majesty's Stationery Office at the date of the alleged contravention unless it is proved that at that date reasonable steps had been taken for the purpose of bringing the purport of the instrument to the notice of the public, or of persons likely to be affected by it, or of the person charged. [1219]

(3) Save as therein otherwise expressly provided, nothing in this section shall affect any enactment or rule of law relating to the time at which any statutory instrument comes into operation. [1220]

*Object of section.*—There is, generally speaking, ample opportunity for the public to become acquainted with the existence and purport of an Act of Parliament because of the press and broadcasting publicity which the Bill receives in its various stages before it becomes an Act. The same degree of publicity does not, however, attach to a statutory instrument, and there is, therefore, a danger that a member of the public may be convicted for contravening the provisions of an instrument the existence of which he could have had no means of knowing. In the case of *Johnson v. Sargant & Sons*, [1918] 1 K. B. 101; 87 L. J. K. B. 122; 118 L. T. 95; 62 Sol. Jo. 88, an Order made by the Food Controller under the Defence of the Realm Regulations was dated May 16, 1917, but was not known to the parties to the action or to the public generally till May 17, and it was held that the Order came into operation only when it became known, namely, on May 17. It was felt during the debate on the Bill that, notwithstanding that case, which was a civil action, it was not clearly laid down at what stage in the life of a statutory instrument it became possible to convict a person for a contravention of its provisions. This section aims, therefore, at removing that uncertainty, and its effect is, as the Solicitor-General said in moving the clause (417 H. of C. Official Report 1135), to place a citizen in the same position, as far as is reasonably possible, in relation to statutory instruments creating offences as he already is in relation to Acts of Parliament. The onus is on the defendant to prove that the instrument under which he is charged had not been issued at the date of the alleged offence. The prosecution may then rebut the defence of non-issue by showing that reasonable steps have been taken to bring the purport of the instrument to the notice of the public generally, or of persons likely to be affected by it, or of the person charged.

#### 4. Statutory Instruments which are required to be laid before Parliament.

—(1) Where by this Act or any Act passed after the commencement of this Act any statutory instrument is required to be laid before Parliament after being made, a copy of the instrument shall be laid before each House of Parliament and, subject as hereinafter provided, shall be so laid before the instrument comes into operation :

Provided that if it is essential that any such instrument should come into operation before copies thereof can be so laid as aforesaid, the instrument may be made so as to come into operation before it has been so laid ; and where any statutory instrument comes into operation before it is laid before Parliament, notification shall forthwith be sent to the Lord Chancellor and to the Speaker of the House of Commons drawing attention to the fact that copies of the instrument have yet to be laid before Parliament and explaining why such copies were not so laid before the instrument came into operation. [1221]

(2) Every copy of any such statutory instrument sold by the King's printer of Acts of Parliament shall bear on the face thereof—

- (a) a statement showing the date on which the statutory instrument came or will come into operation ; and
- (b) either a statement showing the date on which copies thereof were laid before Parliament or a statement that such copies are to be laid before Parliament. [1222]

(3) Where any Act passed before the date of the commencement of this Act contains provisions requiring that any Order in Council or other document made in exercise of any power conferred by that or any other Act be laid before Parliament after being made, any statutory instrument made in exercise of that power shall by virtue of this Act be laid before Parliament and the foregoing provisions of this section shall apply thereto accordingly in substitution for any such provisions as aforesaid contained in the Act passed before the said date. [1223]

*Effect of section.*—This section meets the objection made by the Select Committee on Statutory Rules and Orders in their Special Report (House of Commons Paper No. 113 (see Preliminary Note, ante) ) to the vague requirement of laying statutory instruments before Parliament "as soon as may be". This section requires them to be laid before Parliament before they come into operation, but it is not a condition precedent to the coming into operation of an instrument that it has been so laid (417 H. of C. Official Report 1176). There will, clearly, be cases in which it is not possible to lay an instrument before Parliament before it comes into operation ; if, for instance, Parliament is not sitting, or the instrument is of such urgency that it must be brought into operation before there is time to lay it. The necessary safeguard for such cases is provided by the proviso to sub-s. (1), which requires notification



to be given to the Lord Chancellor and the Speaker of the House of Commons of any instrument which has been brought into operation before being laid. As a result of the requirements of sub-s. (2) any slip-up in procedure will be immediately apparent on receipt of the affected Order from the King's printer.

**5. Statutory Instruments which are subject to annulment by resolution of either House of Parliament.**—(1) Where by this Act or any Act passed after the commencement of this Act, it is provided that any statutory instrument shall be subject to annulment in pursuance of resolution of either House of Parliament, the instrument shall be laid before Parliament after being made and the provisions of the last foregoing section shall apply thereto accordingly, and if either House, within the period of forty days beginning with the day on which a copy thereof is laid before it, resolves that an Address be presented to His Majesty praying that the instrument be annulled, no further proceedings shall be taken thereunder after the date of the resolution, and His Majesty may by Order in Council revoke the instrument, so, however, that any such resolution and revocation shall be without prejudice to the validity of anything previously done under the instrument or to the making of a new statutory instrument. [1224]

(2) Where any Act passed before the date of the commencement of this Act contains provisions requiring that any Order in Council or other document made in exercise of any power conferred by that or any other Act shall be laid before Parliament after being made and shall cease to be in force or may be annulled, as the case may be, if within a specified period either House presents an address to His Majesty or passes a resolution to that effect, then, subject to the provisions of any Order in Council made under this Act, any statutory instrument made in exercise of the said power shall by virtue of this Act be subject to annulment in pursuance of a resolution of either House of Parliament and the provisions of the last foregoing subsection shall apply thereto accordingly in substitution for any such provisions as aforesaid contained in the Act passed before the said date. [1225]

*Effect of section.*—This and the two following sections meet the criticisms in the Special Report of the Select Committee on Statutory Rules and Orders (House of Commons Paper No. 113 (see Preliminary Note, *ante*)) of the lack of uniformity in the periods for which instruments are to lie before Parliament, and also the lack of uniformity in reckoning the various periods. This section introduces a standard period of forty days from the laying of an instrument before Parliament within which action for annulment must be taken, and s. 7, *post*, provides that in reckoning the period of forty days for the purposes of s. 5 and 6 no account is to be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days. It will be noted that the section applies only to instruments which are subject to negative resolution procedure. The reason for excluding instruments in the affirmative class was given by the Solicitor-General in moving the Second Reading of the Bill (415 H. of C. Official Report 1114) as follows :—

"The reason is to be found in the nature of the two categories. In the case of the negative type the instrument is effective and remains effective unless and until within the specified period there is a negative Resolution which puts an end to its life. In respect of that type, the necessity arises for having some uniform period uniformly assessed before hon. Members may know where they are and how the time which is allotted for introducing their negative resolution is going, if they think the case calls for such procedure. In the case of the affirmative type of resolution, I suggest to the House that there is no similar need, because in the case of the affirmative Resolution type the instrument is of no effect, remains of no effect and remains a complete nullity unless and until at such time or other there is introduced an affirmative Resolution which brings it to life and stops it being annulled. Therefore, I urge upon the House that there is a fundamental distinction between the two types. Whereas in the case of a negative Resolution there must be some uniformity and some uniform method of assessing the time, in the case of an affirmative Resolution that necessity does not arise because if there is no affirmative Resolution nothing happens, and it is so much worse for the Minister because he does not get his powers effected."

*Sub-s. (2).*—As to the exclusion or modification of this subsection in relation to certain instruments made under the provisions of earlier Acts, see s. 9, *post*.

**6. Statutory Instruments of which drafts are to be laid before Parliament.**—(1) Where by this Act or any Act passed after the commencement of this Act it is provided that a draft of any statutory instrument shall be laid before Parliament, but the Act does not prohibit the making of the instrument



without the approval of Parliament, then, in the case of an Order in Council the draft shall not be submitted to His Majesty in Council, and in any other case the statutory instrument shall not be made, until after the expiration of a period of forty days beginning with the day on which a copy of the draft is laid before each House of Parliament, or, if such copies are laid on different days, with the later of the two days, and if within that period either House resolves that the draft be not submitted to His Majesty or that the statutory instrument be not made, as the case may be, no further proceedings shall be taken thereon, but without prejudice to the laying before Parliament of a new draft. [1226]

(2) Where any Act passed before the date of the commencement of this Act contains provisions requiring that a draft of any Order in Council or other document to be made in exercise of any power conferred by that or any other Act shall be laid before Parliament before being submitted to His Majesty, or before being made, as the case may be, and that it shall not be so submitted or made if within a specified period either House presents an address to His Majesty or passes a resolution to that effect, then, subject to the provisions of any Order in Council made under this Act, a draft of any statutory instrument made in exercise of the said power shall by virtue of this Act be laid before Parliament and the provisions of the last foregoing subsection shall apply thereto accordingly in substitution for any such provisions as aforesaid contained in the Act passed before the said date. [1227]

*Effect of section.*—This section applies the standard period of forty days to the laying before Parliament of drafts of statutory instruments, and, as with s. 5, *ante*, the instruments affected are those which are subject to negative resolution procedure. See also the notes to s. 4, *ante*.

*Sub-s. (2).*—As to the exclusion or modification of this subsection in relation to certain instruments made under the provisions of earlier Acts, see s. 9, *post*.

**7. Supplementary provisions as to sections 4, 5 and 6.**—(1) In reckoning for the purposes of either of the last two foregoing sections any period of forty days, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days. [1228]

(2) In relation to any instrument required by any Act, whether passed before or after the commencement of this Act, to be laid before the House of Commons only, the provisions of the last three foregoing sections shall have effect as if references to that House were therein substituted for references to Parliament and for references to either House and each House thereof. [1229]

(3) The provisions of sections four and five of this Act shall not apply to any statutory instrument being an order which is subject to special Parliamentary procedure, or to any other instrument which is required to be laid before Parliament, or before the House of Commons, for any period before it comes into operation. [1230]

*Effect of section.*—See notes to s. 5, *ante*.

*Special parliamentary procedure.*—See the Statutory Orders (Special Procedure) Act, 1945 (38 Halsbury's Statutes 439).

**8. Regulations.**—(1) The Treasury may, with the concurrence of the Lord Chancellor and the Speaker of the House of Commons, by statutory instrument make regulations for the purposes of this Act, and such regulations may, in particular :—

(a) provide for the different treatment of instruments which are of the

nature of a public Act, and of those which are of the nature of a local and personal or private Act ;

- (b) make provision as to the numbering, printing, and publication of statutory instruments including provision for postponing the numbering of any such instrument which does not take effect until it has been approved by Parliament, or by the House of Commons, until the instrument has been so approved ;
- (c) provide with respect to any classes or descriptions of statutory instrument that they shall be exempt, either altogether or to such extent as may be determined by or under the regulations, from the requirement of being printed and of being sold by the King's printer of Acts of Parliament, or from either of those requirements ;
- (d) determine the classes of cases in which the exercise of a statutory power by any rule-making authority constitutes or does not constitute the making of such a statutory rule as is referred to in subsection (2) of section one of this Act, and provide for the exclusion from that subsection of any such classes ;
- (e) provide for the determination by a person or persons nominated by the Lord Chancellor and the Speaker of the House of Commons of any question—
  - (i) as to the numbering, printing, or publication of any statutory instrument or class or description of such instruments :
  - (ii) whether or to what extent any statutory instrument or class or description of such instruments is, under the regulations, exempt from any such requirement as is mentioned in paragraph (c) of this subsection :
  - (iii) whether any statutory instrument or class or description of such instruments is in the nature of a public Act or of a local and personal or private Act :
  - (iv) whether the exercise of any power conferred by an Act passed before the commencement of this Act is or is not the exercise of a power to make a statutory rule. [1231]

(2) Every statutory instrument made under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament. [1232]

**9. Powers to extend Act to other orders, etc., and to modify application of certain provisions thereof.**—(1) If with respect to any power to confirm or approve orders, rules, regulations or other subordinate legislation conferred on a Minister of the Crown by any Act passed before the commencement of this Act, it appears to His Majesty in Council that, notwithstanding that the exercise of that power did not constitute the making of a statutory rule within the meaning of the Rules Publication Act, 1893, it is expedient that the provisions of this Act should apply to documents by which that power is exercised, His Majesty may by Order in Council direct that any document by which that power is exercised after such date as may be specified in the Order shall be known as a "statutory instrument" and the provisions of this Act shall apply thereto accordingly. [1233]

(2) If with respect to any Act passed before the commencement of this Act it appears to His Majesty in Council that by reason of the exceptional nature of any provisions of that Act the application of subsection (2) of section five or subsection (2) of section six of this Act to statutory instruments made under any provisions of that Act would be inexpedient, His Majesty may by Order in Council direct that those subsections shall not apply to statutory instruments made under those provisions, or shall apply

thereto subject to such modifications as may be specified in the Order. [1234]

(3) A draft of any Order in Council proposed to be made under this section shall be laid before Parliament. [1235]

*Effect of section.*—See Preliminary Note, *ante*.

*Rules Publication Act, 1893.*—18 Halsbury's Statutes 1016.

**10. Commencement of Act.**—(1) This Act shall come into operation on such date as His Majesty may by Order in Council appoint :

Provided that, without prejudice to the provisions of section thirty-seven of the Interpretation Act, 1889, the last foregoing section and, in relation to any Order in Council made thereunder, the provisions of sections six and seven of this Act shall come into operation on the passing of this Act. [1236]

(2) The Order in Council made under this section shall be laid before Parliament after being made. [1237]

*Date of operation.*—Up to the time of going to press no Order in Council under sub-s. (1) had been made ; but see Preliminary Note, *ante*.

*Interpretation Act, 1889, s. 37.*—18 Halsbury's Statutes 1005. The section relates to the exercise of statutory powers between the passing and the commencement of an Act.

**11. Interpretation.**—(1) For the purposes of this Act, any power to make, confirm or approve orders, rules, regulations or other subordinate legislation conferred on the Treasury, the Admiralty, the Board of Trade or any other government department shall be deemed to be conferred on the Minister of the Crown in charge of that department. [1238]

(2) If any question arises whether any board, commissioners or other body on whom any such power as aforesaid is conferred are a government department within the meaning of this section, or what Minister of the Crown is in charge of them, that question shall be referred to and determined by the Treasury. [1239]

**12. Repeal of 56 & 57 Vict. c. 66 and re-enactment of section 3 (3) thereof.**

—(1) The Rules Publication Act, 1893, is hereby repealed. [1240]

(2) The publication in the London, Edinburgh or Belfast Gazette of a notice stating that a statutory instrument has been made, and specifying the place where copies thereof may be purchased, shall be sufficient compliance with the provisions of any enactment, whether passed before or after the commencement of this Act, requiring that instrument to be published or notified in that Gazette. [1241]

*Rules Publication Act, 1893.*—18 Halsbury's Statutes 1016. Sub-s. (2) re-enacts s. 3 (3) of the 1893 Act (*ibid.* 1018).

**13. Short title and extent.**—(1) This Act may be cited as the Statutory Instruments Act, 1946. [1242]

(2) This Act shall apply to any statutory instrument made by His Majesty in Council or by any Minister of the Crown (not being a rule-making authority within the meaning of the Rules Publication Act (Northern Ireland), 1925) in so far as it extends to Northern Ireland, but except as aforesaid this Act shall not extend to Northern Ireland. [1243]

## ORDERS, CIRCULARS AND MEMORANDA

To :—

Circular 2/47

*County Councils*  
*County Borough Councils*  
*Common Council of the City of London*  
*Metropolitan Borough Councils*  
*County District Councils*  
*Joint Boards, Catchment Boards*  
*Drainage Boards*  
*Statutory Water Companies*  
*Peterborough Joint Education Board*  
*Certain other Authorities*

MINISTRY OF HEALTH,  
 WHITEHALL,  
 LONDON, S.W.1.  
 13th January, 1947.

SIR,

## SPECIAL ENACTMENTS (EXTENSION OF TIME) ACT, 1940

I am directed by the Minister of Health to state that the Government, having examined the question whether "the period of the present emergency" for the purposes of the above-mentioned Act should be brought to an end in the near future, have found it undesirable that the powers of the Act, which can be exercised only where requisite or expedient by reason of any circumstances directly or indirectly attributable to war, should continue to be available for any long period after the end of actual warfare, and have decided that the said period should end with the 30th June, 1947. An Order in Council to give effect to the decision will be made at the appropriate time. [1244]

The Minister of Health has consulted the Ministers of Agriculture and Fisheries, Education, Fuel and Power, and Transport upon the effects of the decision and it has been arranged that this circular letter should inform all interested bodies of those effects. [1245]

The Act provides that where, by or by virtue of provisions regulating the discharge of a duty or the exercise of a power to which it applies, a time is limited or a date is fixed within or at which the duty is to be discharged, or the power may be exercised, or an exercise of the power is to take effect, the appropriate Minister may make an order extending the time as so limited by any period of not more than three years, provided that the application is made during "the period of the present emergency". The powers and duties to which the Act applies are any duty imposed or power conferred by a local or private Act, an order confirmed by an Act, or an order of a local or private nature made under an Act, and any power to purchase, or power of re-entry exercisable in relation to, a public utility undertaking, or part of such undertaking. The Act does not apply to a duty imposed or a power conferred by an Act passed, or an order made, after the passing of the general Act, namely the 25th April, 1940, unless the contrary intention appears in the Act or order which imposes the duty or confers the power. [1246]

An application for an order must be made before the expiration of the time within which, or the date at which, the duty or power to which the application relates is to be discharged or exercised but may not be made more than three years before the expiration of that time or before that date, as the case may be. [1247]

The appropriate Minister, being the Minister of the Crown (a) in charge of the government department concerned with the purposes for which the

(a) An application for an order in relation to an electricity supply undertaking should be made to the Electricity Commissioners.

duty is imposed or the power conferred, will be prepared, until the 30th June, 1947, to entertain an application for an order under the Act in relation to a duty or power the time for the discharge or exercise of which will expire at a date not more than three years after the date of the application, but not in any case later than the 30th June, 1950. [1248]

I am to add that orders already made and those to be made under the Act will not be affected by the termination of the emergency period. [1249]

I am, Sir, etc.

\* \* \* \* \*

The Clerk to the Authority  
The Secretary of the Company.

## SUPERANNUATION

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## STATUTES

### THE SUPERANNUATION ACT, 1946

(9 & 10 Geo. 6, c. 60)

#### PRELIMINARY NOTE

This Act makes certain amendments to the existing law as to the grant of retirement pensions and gratuities to persons employed in the civil service, and forms a step in government plans for a post-war reconstruction of the service.

S. 1 enables an ex-service recruit to the civil service during a period from September 3, 1939, to a date to be appointed by the Treasury to count for superannuation purposes all service in the forces after the age at which he might have been appointed to the service in the class in which he was in fact appointed, as if such service had been continuous service in an unestablished capacity. Ex-service recruits are thus placed on the same footing as temporary war-time civil servants who are subsequently established.

S. 2 deals with late entrants to the civil service, namely, those who are recruited from outside the service because they possess special qualifications, and who, as a rule, will be above the normal age for recruitment. The section provides for what are known as "added years", with the object of so weighting the service of late entrants that they will receive an adequate pension on retirement. Normally, this concession will be available only to persons who become civil servants after reaching the age of forty years, but it may, exceptionally, be extended to persons who become civil servants between the ages of thirty-five and forty years, though, in this latter case, the period of service before the age of forty years will not count for superannuation purposes. The length of service of these late entrants is to be taken as being eight-fifths of their actual length of service.

S. 3 and Sched. II make certain amendments to the Superannuation Acts, among them being an amendment dealing with the counting for superannuation purposes of unestablished service between 1919 and 1935 of persons who subsequently become established, the primary intention being to benefit those officers known as

Lytton and Southborough entrants. Its effect is to enable half of any unestablished service to count as established service for superannuation purposes. The same amendment also makes provision for pensions for those officers who on account of their age are barred from becoming established.

S. 4 authorises the Treasury by regulations to make various modifications to the Superannuation Acts in order to meet certain war circumstances, these modifications being chiefly directed towards safeguarding the superannuation positions of civil servants who left their usual employment in order to engage in work of national importance. The section also provides for the application of injury warrants under s. 1 of the Superannuation Act, 1887 (16 Halsbury's Statutes 566), to civil servants who died or were injured while in enemy-occupied territory, and for a special scale of retiring gratuities to temporary civil servants employed in the Control Service for Germany and Austria.

S. 5 applies to the civil service the Federated Superannuation System for Universities, the Federated Superannuation Scheme for Nurses and Hospital Officers and any other superannuation schemes which may be approved by the Treasury. It will enable the State to keep alive the pension rights of persons subject to such schemes who are employed in the civil service for limited periods and who subsequently return to their universities or hospitals.

S. 6 extends the protection at present given to teachers who become temporary civil servants. Their pension rights will now be protected even though they are not employed in the civil service in work analogous to teaching.

S. 7 provides that regulations must be laid before Parliament where they will be subject to negative resolution of either House within forty days of being so laid.

[1250]

#### ARRANGEMENT OF SECTIONS

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*An Act to amend the Superannuation Acts ; and to make further provision as to persons employed in the civil service of the State whose superannuation benefits are regulated under the enactments relating to teachers or to officers and servants of local authorities, or under certain approved schemes.* [1250]

[26th July, 1946.]

1. **Counting of certain war service for superannuation purposes.**—(1) Where, during the period beginning with the third day of September, nineteen hundred and thirty-nine, and ending with such date as the Treasury may by order appoint, a person has entered the civil service of the State after whole-time service during that period in the armed forces of the Crown, in the merchant navy or the mercantile marine, or in any of the women's services specified in the First Schedule to this Act, then for the purposes of section four of the Superannuation Act, 1887, or section three of the Superannuation Act, 1914 (which relate to gratuities on retirement or death),

or section three of the Superannuation Act, 1935 (which enables persons who become civil servants to reckon for superannuation purposes previous service in an unestablished capacity), any such whole-time service as aforesaid served by that person after he had attained the age at which, in the opinion of the Treasury, he might but for war circumstances have been appointed to the civil service of the State in the class in which he was in fact appointed shall, subject to any regulations made under this section, be treated as if it had been continuous service in an unestablished capacity ending immediately before the date on which the said person entered the civil service of the State. [1252]

(2) The Treasury may make regulations—

- (a) for securing that service shall not be reckoned for the purposes of the last foregoing subsection if it is reckoned for the purposes of the grant of naval, military or air force non-effective pay, including gratuities other than war gratuities to which section twenty-three of the Finance (No. 2) Act, 1945 (which exempts war gratuities from income tax), applies;
- (b) for excluding from the operation of the last foregoing subsection any period in respect of which the person in question was in receipt of such non-effective pay as aforesaid, or in respect of which he was in receipt of remuneration in excess of the full normal remuneration of his post in consideration of the service in respect of which the excess remuneration was payable not being reckoned for increase of any such non-effective pay,

so however that the regulations shall not prevent any service from counting for the purposes of so much of section four of the Superannuation Act, 1887, as requires a minimum period of service as a condition for the grant of a gratuity. [1253]

*Superannuation Act, 1887, s. 4.*—16 Halsbury's Statutes 567. This section, as amended by s. 3 of the Superannuation Act, 1914 (*ibid.* 773), provides for the payment of gratuities on the retirement or death of persons who are unestablished, and who are not, therefore, entitled to superannuation.

*Superannuation Act, 1935, s. 3.*—28 Halsbury's Statutes 297. This section enables a person who becomes a civil servant to reckon for superannuation purposes one-half of any previous unestablished service which began after June 27, 1935, the date of the passing of the Act, as service in the capacity of a civil servant.

*Effect of section.*—The present section makes a concession to ex-service recruits to the civil service whereby they are enabled to count service in the armed forces, in the merchant navy or the mercantile marine, or in the women's services specified in Sched. I, *post*, as if it had been continuous service in an unestablished capacity. The concession applies only to ex-service recruits who enter the civil service between September 3, 1939, and a date to be appointed by the Treasury, and only in relation to war service which is served after the prescribed age for entry into the civil service in the particular class in which a recruit actually enters. If, for instance, a person joined the armed forces at the age of 20, served for five years, and was then appointed to the civil service in a class for which the recruiting age was 23, he would be able for the purposes of this section to count only two of those five years of war service as unestablished service. The result of the concession given by sub-s. (1) is that for those who are established the war service will count as to one-half for superannuation purposes (see the Superannuation Act, 1935, s. 3, *supra*), and that for those who are unestablished it will count in full for retiring gratuity (see the Superannuation Act, 1887, s. 4, as amended by the Superannuation Act, 1914, s. 3, *supra*). Up to the time of going to press no date had been appointed by the Treasury under sub-s. (1).

*Regulations.*—No regulations had, up to the time of going to press, been made under sub-s. (2), which empowers the Treasury to make regulations placing limitations upon the counting of war service of regular members of the armed forces.

*Finance (No. 2) Act, 1945, s. 23.*—38 Halsbury's Statutes 238. That section exempts certain war gratuities from liability to income tax.

*Definition.*—For definition of "unestablished capacity", see s. 9 (1), *post*.

**2. Superannuation of late entrants to civil service.**—(1) If with respect to any person becoming a civil servant after attaining the age of forty years the Treasury have directed that he shall be subject to the provisions of this subsection, then for the purposes of the Superannuation Acts the length



of his service shall be treated as eight-fifths of the actual length thereof. [1254]

(2) If with respect to any person becoming a civil servant between the ages of thirty-five and forty years the Treasury have directed that he shall be subject to the provisions of the last foregoing subsection, the provisions of the last foregoing subsection shall apply in his case accordingly, but his service before attaining the age of forty years shall be disregarded for the purposes of the Superannuation Acts :

Provided that notwithstanding the direction, this subsection shall not have effect so as to prevent or reduce any award under the said Acts which might have been made if the direction had not been given. [1255]

(3) No direction shall be given under this section in the case of a person who became a civil servant before the thirteenth day of May, nineteen hundred and forty-six, and no such direction shall be given in the case of any person after the expiration of six months from the date on which he became a civil servant, or from the commencement of this Act, whichever is the later. [1256]

(4) Any direction under this section shall be laid before each House of Parliament forthwith after it has been given. [1257]

*Superannuation Acts.*—See s. 9 (1), *post*, and notes thereto.

*Effect of section.*—This section, which gives effect to certain recommendations of a Royal Commission on the Civil Service of 1929-31, known as the Tomlin Commission, is designed to attract to the civil service persons with special qualifications for filling particular posts therein, by ensuring that such persons will be able to obtain adequate retiring pensions notwithstanding their late entry. If for instance a person comes in at 40 years of age and remains until he is 60 years of age, the "added years" for which the section provides will enable him to count  $20 \times \frac{3}{4}$ , 32 years of pensionable service, and, therefore, to be in the same position as the person coming in at 28 years of age and remaining until 60 years of age. It was stated by the Financial Secretary to the Treasury in moving the Second Reading of the Bill (424 H. of C. Official Report 613) that this provision would be used sparingly but adequately. It will be noted that it only applies to persons who become civil servants on or after May 13, 1946.

**3. Minor amendments of Superannuation Acts.**—The Superannuation Acts shall be amended in manner provided by the Second Schedule to this Act. [1258]

*Effect of section.*—See notes to Sched. II, *post*.

*Superannuation Acts.*—See s. 9 (1), *post*, and notes thereto.

**4. Modifications of Superannuation Acts to meet war circumstances.**—

(1) For the purpose of adapting the Superannuation Acts to the circumstances of persons whose employment in the civil service of the State (in this subsection referred to as "usual employment") has been interrupted or terminated by war circumstances, so as to authorise the making, whether before or after the commencement of this Act, of awards which, or the amount of which, would not be authorised under the said Acts apart from this section, the Treasury may make regulations providing, in the case of persons of any class to which the regulations apply,—

- (a) for reckoning time during the war period during which such a person has been absent from his usual employment in order to engage in other employment recognised by the Treasury as being of national importance as if he had spent the time in his usual employment at the remuneration which he would have been receiving if he had not left that employment ;
- (b) for securing that, in the case of a person who during the war period was absent from his usual employment in order to serve in the armed forces of the Crown or to be employed in other work recognised by the Treasury as being of national importance, and while so serving or employed died or became by reason of infirmity of

mind or body permanently incapacitated for the duties of his usual employment, the Superannuation Act, 1887, and section three of the Superannuation Act, 1914 (which provide for gratuities in the case of persons not entitled to superannuation allowance who die while employed or are removed in consequence of the abolition of their employment or by reason of incapacity), shall apply as if at the time when he became absent from his usual employment he had been removed therefrom in consequence of the abolition thereof;

- (c) in the case of a person who, having entered on his usual employment after having served on a regular engagement in the armed forces of the Crown, left his usual employment to enter on further service in those forces, and was subsequently reinstated in his usual employment, for reckoning such further service, or any subsequent employment in the civil service of the State before he was reinstated, for the purposes of the Superannuation Acts in such manner as may be specified in the regulations;
- (d) in the case of a person who, not being a person falling within the last foregoing paragraph, left his usual employment on or after the third day of September, nineteen hundred and thirty-nine, without the consent of the head officer in the department in which he was employed, to enter on service in the armed forces of the Crown or on other work recognised by the Treasury as being of national importance, and was subsequently reinstated in his usual employment, for reckoning as aforesaid such service or work, or any subsequent employment in the civil service of the State before he was reinstated;
- (e) in the case of a person who on or after the said date left his usual employment through having for reasons of conscience refused to enter on service in the armed forces of the Crown or to continue in his usual employment, but later entered on such service or returned to employment in the civil service of the State, and was subsequently reinstated in his usual employment, for reckoning as aforesaid such service or employment before he was reinstated;
- (f) for applying section one of the Superannuation Act, 1887 (which provides in the case of death or injury arising from service for awards in accordance with the terms of a Treasury warrant), and any warrant made thereunder to persons who died or were injured while in territory occupied by an enemy, or whose death or injury is attributable to circumstances arising while they were in such territory. [1259]

(2) Regulations of the Treasury under this Act may make provision, in substitution for the provisions of section four of the Superannuation Act, 1887, authorising the payment, whether before or after the commencement of this Act, to persons employed in the Control Service for Germany and Austria, being persons employed in any such capacity as is mentioned in the said section four, or to any class of such persons, of gratuities on the termination of their employment. [1260]

(3) In this section the expression "war period" means the period beginning with the third day of September, nineteen hundred and thirty-nine, and ending with such date as the Treasury may by order appoint. [1261]

*General effect of section.*—See Preliminary Note, *ante*. The civil servant who joined the armed forces proper is not in need of the protection afforded by this section, since his basic pay was made up during his period of military service, and his pension rights consequently preserved. However, the civil servant who left the service to engage in work of national importance received no similar protection, and it is for him that the provisions of this section

are necessary if he is to be placed, on his return to the civil service, in the same position for pension purposes as his fellow civil servant who served with the armed forces.

*Superannuation Acts.*—See s. 9 (1), *post*, and notes thereto.

*Superannuation Act, 1887*, ss. 1 and 4.—16 Halsbury's Statutes 566, 567.

*Superannuation Act, 1914*, s. 3.—*Ibid.* 773. That section amends s. 4 of the Act of 1887. *Regulations.*—Up to the time of going to press no regulations had been made under this section.

### 5. Application to civil service of certain superannuation schemes.—

(1) Where, whether before or after the commencement of this Act,—

- (a) a person employed in the civil service of the State has, with the approval of the Treasury, become subject to a superannuation scheme to which this section applies ; or
- (b) a person subject to such a scheme is employed in the civil service of the State and, with the approval of the Treasury, remains subject to the scheme,

the Minister or other person in charge of the department in which that person is employed shall have power, and be deemed always to have had power, but (except where that department is the Treasury) subject to the approval of the Treasury,—

- (i) to pay the contributions authorised or required by the scheme to be paid by that person's employer,
- (ii) to refund the amount of any payments made, whether by that person or by a former employer of his, in respect of any period during which that person was employed in the civil service of the State, being payments falling to be borne by the employer in respect of premiums payable under any policy of insurance issued in pursuance of the scheme or in respect of sums to be invested in pursuance thereof. [1262]

(2) Any period, whether before or after the commencement of this Act, in respect of which payments authorised by the last foregoing subsection have been made in the case of any person employed in the civil service of the State, whether before or after he became so employed, shall notwithstanding anything in the Superannuation Acts be disregarded in the application to him of any provisions of those Acts except section one of the Superannuation Act, 1887 (which provides for awards in the case of death or injury arising from service). [1263]

(3) The Treasury may make regulations for conferring on persons employed in the civil service of the State who are subject to any scheme to which this section applies, or any class of such persons, benefits appearing to the Treasury to correspond as nearly as may be with the benefits conferred, on persons whose superannuation benefits are regulated under the Superannuation Acts, by sections one and four of this Act, by section three of the Superannuation Act, 1935, and by sections one and two of the Pensions (Increase) Act, 1944. [1264]

(4) The schemes to which this section applies are the superannuation schemes operated under the Federated Superannuation System for Universities, the Federated Superannuation Scheme for Nurses and Hospital Officers, and any other scheme approved by the Treasury for the purposes of this section. [1265]

*Superannuation Acts.*—See s. 9 (1), *post*, and notes thereto.

*General effect of section.*—This section is designed to safeguard the pension rights of persons who are subject to superannuation schemes operated by the Federated Superannuation System for Universities or the Federated Superannuation Scheme for Nurses and Hospital Officers, and who move from university or hospital service to temporary service with the State. The section enables the State to pay the employers' contributions under the schemes and to keep alive the pension rights thereunder during the periods of temporary civil service.

*Regulations.*—Up to the time of going to press no regulations had been made by the Treasury under sub-s. (3).

*Superannuation Act, 1887, s. 1.*—16 Halsbury's Statutes 566.

*Superannuation Act, 1935, s. 3.*—28 Halsbury's Statutes 297.

*Pensions (Increase) Act, 1944, ss. 1 and 2.*—37 Halsbury's Statutes 522, 523.

**6. Amendments as to superannuation for former teachers employed in civil service.**—(1) Service, whether before or after the commencement of this Act, as a civil servant in a capacity approved by the Treasury for the purposes of this subsection shall be treated as approved external service falling within paragraph (b) of subsection (1) of section thirteen of the Teachers (Superannuation) Act, 1925 (which provides for reckoning a teacher's approved external service for superannuation purposes)—

- (a) notwithstanding that the service does not satisfy the condition specified in the said paragraph (b) that it must be in a capacity in which teaching experience is of value or was of value at the date of the teacher's appointment therein;
- (b) notwithstanding that the teacher does not satisfy the Minister of Education as to the length of his previous engagement as a teacher, as required by the said paragraph (b),

so however that service which is so treated by virtue only of this subsection shall be disregarded for the purposes of the provisions of Part II of the said Act with respect to the calculation of the average salary of a teacher. [1266]

(2) For the purpose of determining whether a civil servant has served for the minimum period prescribed under the Superannuation Acts for the payment of a superannuation allowance or additional allowance, or a gratuity to his personal representatives on his death, any service, whether before or after the commencement of this Act, before he became a civil servant which is—

- (a) recognised service or contributory service for the purposes of the Teachers Superannuation Acts, 1918 to 1945, or
- (b) service which is recorded under the scheme framed and approved under the Education (Scotland) (Superannuation) Acts, 1919 to 1939, and any Act amending the same (hereinafter referred to as "the Scottish Teachers Scheme"), or
- (c) service (not falling within the foregoing paragraphs) approved by the Treasury for the purposes of this section, being—

(i) service which may be treated for any of the purposes of the Teachers Superannuation Acts, 1918 to 1945, as recognised or contributory service, or

(ii) employment which may be treated as service for the purpose of determining whether a teacher has completed a definite period of service prescribed as a condition of obtaining a retiring allowance or a gratuity under the Scottish Teachers Scheme,

shall be treated as if it were service as a civil servant :

Provided that any service which under subsection (2) of section twelve of the Teachers (Superannuation) Act, 1925, or under subsection (2) of Article 14 of the Scottish Teachers Scheme, would, by reason of the repayment of contributions, be excluded in reckoning periods of contributory or recognised service for the purposes of Part II of the said Act of 1925, or be cancelled in the record of service maintained under the Scottish Teachers Scheme, as the case may be, shall be disregarded for the purposes of this subsection. [1267]

(3) In relation to a civil servant who has served less than ten years' actual service as such, but by virtue of this section has served for the minimum period prescribed under the Superannuation Acts for the payment of a superannuation allowance, section two of the Superannuation Act, 1859,

shall have effect as if it provided that the superannuation allowance for civil servants who have completed any number of years' service less than ten should be one eightieth of the average salary and emoluments mentioned in the said section for each complete year of service. [1268]

(4) Nothing in the foregoing provisions of this section shall render any allowance or gratuity payable in respect of any period before the commencement of this Act. [1269]

*Effect of section.*—This section extends the existing provisions for safeguarding the superannuation rights of teachers who become civil servants. S. 13 (1) (b) of the Teachers (Superannuation) Act, 1925 (7 Halsbury's Statutes 328), safeguards those rights in the case of a teacher who temporarily enters the civil service in a capacity, approved by the Treasury, in which teaching experience is of value, where the teacher satisfies the Minister of Education that before entering the civil service he was engaged for not less than three years as a teacher in a capacity approved by the Minister. Such service is known as "approved external service", that is, service outside the teaching profession which may be counted for purposes of teachers' superannuation.

*Sub-s. (1).*—The effect of sub-s. (1) of the present section is to remove the two conditions laid down by s. 13 (1) (b) of the 1925 Act, *supra*, for reckoning approved external service, and to enable a teacher to count any service as a civil servant in a capacity approved by the Treasury as such approved external service. Service in, say, the Ministry of Food would, if approved by the Treasury, count equally for pension as service in the Ministry of Education which fulfilled the requirements of the aforesaid s. 13 (1) (b).

*Calculation of average salary.*—As to calculation of the average salary of a teacher, see s. 10 of the Teachers (Superannuation) Act, 1925 (7 Halsbury's Statutes 326).

*Sub-s. (2).*—Sub-s. (2) deals with the case of a former teacher who becomes an established civil servant, and makes provision for treating any superannuable service as a teacher before transfer to the civil service as if it were service as a civil servant.

*Superannuation Acts.*—See s. 9 (1), *post*, and notes thereto.

*Recognised service and contributory service.*—As to recognised service and contributory service for the purposes of the Teachers (Superannuation) Acts, 1918 to 1945, see s. 18 of the School Teachers (Superannuation) Act, 1918 (7 Halsbury's Statutes 312), s. 2 (1) of the Teachers (Superannuation) Act, 1925 (*ibid.* 318), and s. 1 (1) of the Teachers (Superannuation) Act, 1945 (38 Halsbury's Statutes 54).

*Teachers (Superannuation) Acts, 1918 to 1945.*—The Teachers (Superannuation) Acts, 1918 to 1945, are the School Teachers (Superannuation) Act, 1918 (7 Halsbury's Statutes 303), the School Teachers (Superannuation) Act, 1922 (*ibid.* 314), the School Teachers (Superannuation) Act, 1924 (*ibid.* 316), the Teachers (Superannuation) Act, 1925 (*ibid.* 317), the Teachers (Superannuation) Act, 1935 (28 Halsbury's Statutes 49), the Teachers (Superannuation) Act, 1937 (30 Halsbury's Statutes 180), the Teachers Superannuation (War Service) Act, 1939 (32 Halsbury's Statutes 1131), and the Teachers (Superannuation) Act, 1945 (38 Halsbury's Statutes 53).

*Superannuation Act, 1859, s. 2.*—16 Halsbury's Statutes 180. This section prescribes the minimum period of service for a superannuation allowance as ten years, a person who serves for this period being entitled to an annual allowance of ten-eightieths of the average annual amount of his salary and emoluments during the last three years of his service. See also s. 1 of the Superannuation Act, 1909 (*ibid.* 741), and s. 4 (2) (a) of the Superannuation Act, 1935 (28 Halsbury's Statutes 299).

*Teachers (Superannuation) Act, 1925, s. 12 (2).*—7 Halsbury's Statutes 327.

**7. Provisions as to regulations.**—(1) Any regulations under this Act shall be laid before Parliament forthwith after they have been made, and if either House of Parliament, within the period of forty days beginning with the day on which any such regulations as aforesaid are laid before it, resolves that the regulations be annulled, they shall thereupon become void, without prejudice, however, to the validity of anything previously done thereunder or to the making of new regulations. [1270]

(2) In reckoning any such period of forty days as aforesaid, no account shall be taken of any time during which Parliament is dissolved or prorogued, or during which both Houses are adjourned for more than four days. [1271]

(3) Notwithstanding anything in subsection (4) of section one of the Rules Publication Act, 1893, regulations made under this Act shall not be deemed to be, or to contain, statutory rules to which that section applies. [1272]

*Rules Publication Act, 1893, s. 1 (4).*—18 Halsbury's Statutes 1016.

**8. Expenses.**—There shall be paid out of moneys provided by Parliament any increase attributable to the provisions of this Act in the sums which

under the Superannuation Acts, 1834 to 1943, or the enactments relating to the superannuation of teachers are payable out of moneys so provided, and any expenses incurred under section five of this Act. [1273]

*Superannuation Acts, 1834 to 1943.*—See note to s. 9, *post*. For the enactments relating to the superannuation of teachers, see note to s. 6, *ante*.

**9. Interpretation.**—(1) In this Act the following expressions have the meanings hereby respectively assigned to them, that is to say—

“the Superannuation Acts” means the Superannuation Acts, 1834 to 1943 and this Act;

“unestablished capacity” has the same meaning as in section three of the Superannuation Act, 1935, that is to say, employment in the civil service of the State otherwise than in the capacity of a civil servant as defined by the Superannuation Act, 1887, being employment to which the person serving therein is required to devote his whole time, and the remuneration for which is paid entirely out of moneys provided by Parliament. [1274]

(2) References in this Act to any enactment shall, unless the context otherwise requires, be construed as references to that enactment as amended by or under any subsequent enactment, including an enactment contained in this Act. [1275]

*Superannuation Acts, 1834 to 1943.*—The Superannuation Acts, 1834, 1859, 1866, 1876, 1884, 1887, 1892, 1909, 1914 (16 Halsbury's Statutes 122, 179, 238, 378, 551, 566, 686, 741, 772), the Superannuation (Prison Officers) Act, 1919 (13 Halsbury's Statutes 374), the Superannuation (Diplomatic Service) Act, 1929 (3 Halsbury's Statutes 525), the Superannuation Act, 1935 (28 Halsbury's Statutes 295) and Part I of the Foreign Service Act, 1943 (36 Halsbury's Statutes 45).

*Superannuation Act, 1935, s. 3.*—28 Halsbury's Statutes 297. “Unestablished capacity” is defined in sub-s. (4) thereof (*ibid.* 298).

“*Civil servant.*”—The expression “civil servant” is defined by s. 12 of the Superannuation Act, 1887 (16 Halsbury's Statutes 569), to mean “a person who has served in an established capacity in the permanent civil service of the State within the meaning of s. 17 of the Superannuation Act, 1859”. For s. 17 of the 1859 Act, see *ibid.* 184.

**10. Short title, construction and citation.**—(1) This Act may be cited as the Superannuation Act, 1946, and except subsection (1) of section six thereof shall be construed as one with the Superannuation Acts, 1834 to 1943, and those Acts and this Act, except as aforesaid, may be cited together as the Superannuation Acts, 1834 to 1946. [1276]

(2) Subsection (1) of section six of this Act may be cited as the Teachers (Superannuation) Act, 1946, and shall be construed as one with the Teachers (Superannuation) Act, 1925, and the Teachers (Superannuation) Acts, 1918 to 1945, and the said subsection (1) may be cited together as the Teachers (Superannuation) Acts, 1918 to 1946. [1277]

*Superannuation Acts, 1834 to 1943.*—See notes to s. 9, *ante*.

*Teachers (Superannuation) Acts, 1918 to 1945.*—See notes to s. 6, *ante*.

## SCHEDULES

### Section 1

### FIRST SCHEDULE

#### WOMEN'S SERVICES

1. Member of Queen Alexandra's Royal Naval Nursing Service or any reserve thereof.
2. Member of the Women's Royal Naval Service.
3. Woman medical or dental practitioner serving in the Royal Navy or any naval reserve.
4. Member of Queen Alexandra's Imperial Military Nursing Service or any reserve thereof.
5. Member of the Territorial Army Nursing Service or any reserve thereof.

6. Member of the Auxiliary Territorial Service.
7. Woman employed with the Royal Army Medical Corps or the Army Dental Corps with relative rank as an officer.
8. Member of Princess Mary's Royal Air Force Nursing Service or any reserve thereof.
9. Member of the Women's Auxiliary Air Force.
10. Women employed with the Medical Branch or the Dental Branch of the Royal Air Force with relative rank as an officer.
11. Member of the Voluntary Aid Detachments employed under the Admiralty, Army Council or Air Council. [1278]

## Section 2

## SECOND SCHEDULE

## MINOR AMENDMENTS OF THE SUPERANNUATION ACTS

1. Rules made by the Treasury under section seven of the Superannuation Act, 1909, for altering the rules made by them under section one of the Superannuation Act, 1892 (which relate to the reckoning of service in two or more public offices), may make provision for enabling any person who has served in two or more public offices to be treated as having served continuously and successively in those offices notwithstanding any intervals between his service in such offices during which he has been transferred to approved employment.

*Superannuation Act, 1892, s. 1.*—16 Halsbury's Statutes 686.

*Superannuation Act, 1909, s. 7.*—*Ibid.* 743.

2.—(1) Section four of the Superannuation Act, 1914, and section eight of the Superannuation Act, 1935 (which provide for superannuation benefits for a civil servant who with the consent of the head of his Department is transferred from the civil service to approved employment), shall subject to the adaptations set out in the next following sub-paragraph apply to a civil servant who, after being transferred as aforesaid, is with the consent of the Treasury transferred to one or more subsequent employments recognised by the Treasury as being employments to which it is expedient that the provisions of the said section four should apply.

(2) The said adaptations are as follows :—

- (a) in the said sections four and eight, references to retirement from the approved employment shall be construed as references to retirement from the latest employment recognised as aforesaid, and references to the transfer shall be construed as references to the transfer from employment as a civil servant ;
- (b) in the said section eight, references to dying while in the approved employment, and to a system of superannuation applicable to the approved employment, shall be construed respectively as references to dying while in the latest employment recognised as aforesaid and to a system of superannuation applicable to that employment.

*Superannuation Act, 1914, s. 4.*—16 Halsbury's Statutes 773.

*Superannuation Act, 1935, s. 8.*—28 Halsbury's Statutes 300.

3.—(1) Subject to the provisions of this paragraph, subsection (1) of section three of the Superannuation Act, 1935 (which provides, in the case of persons entering on service in an unestablished capacity after the commencement of that Act, and subsequently becoming civil servants, that their service in an unestablished capacity shall, as to one half of the period thereof, be reckoned for the purposes of the Superannuation Acts as service as a civil servant), shall extend to persons of such descriptions as may be specified in that behalf by regulations made by the Treasury under this Act notwithstanding that they entered on service in an unestablished capacity before the commencement of the said Act of 1935, so however that no service before the first day of January, nineteen hundred and nineteen, shall be reckoned under the said subsection (1).

(2) The Treasury may make regulations for securing that where, in any case to which the regulations apply, it appears to the Treasury that the provisions of the said section three, either as originally enacted or as extended by sub-paragraph (1) of this paragraph, would have been applicable in the case of any person but for



the fact that he was refused appointment as a civil servant on the ground that by reason of his age he would not if appointed a civil servant have become eligible to receive a superannuation allowance on retirement at the retiring age, the said person may be treated as having been eligible for such superannuation benefits as appear to the Treasury to be equitable having regard to the benefits for which he would have been eligible if he had been appointed a civil servant at the time when he was refused such an appointment.

(3) Payments by way of superannuation allowance shall not be made by virtue of the foregoing provisions of this paragraph in respect of any period before the first day of April, nineteen hundred and forty-six ; but save as aforesaid, and subject to the provisions of regulations of the Treasury under this paragraph, the foregoing provisions of this paragraph shall apply in the case of persons retiring or dying as well before as after the commencement of this Act and any payment under the Superannuation Acts made before the commencement of this Act shall be adjusted accordingly.

(4) Regulations of the Treasury under this paragraph may provide for determining the persons to whom, and the cases in which, payments shall be made by virtue of the foregoing provisions of this paragraph where the person to whom they would otherwise be payable has died or cannot be found, and for dispensing with the production of probate or other proof of the title of the person to whom payment is to be made.

*Purpose of paragraph.*—This paragraph was inserted by amendment in Committee in order to enable effect to be given to an announcement by the Chancellor of the Exchequer in the House of Commons on May 28, 1946 (423 H. of C. Official Report 995), in answer to a question as to the counting of unestablished service in Government Departments for pension purposes. In his reply to the question the Chancellor said :

" . . . I have decided that, as from the beginning of this financial year, the Lytton and Southborough entrants to the established Civil Service shall for the future be pensionable on the basis that the whole of their unestablished service, after the end of the 1914-18 War, shall count as to one-half as pensionable service. I have further decided to apply the same principle to the so-called age-barred officers. I am asking the National Whitley Council for any observations they may wish to make, in the light of these decisions "

*Superannuation Act, 1935, s. 3.*—28 Halsbury's Statutes 297. That section allows the unestablished service of a person after the commencement of that Act to count as to one-half thereof as pensionable service on his subsequently becoming established. The effect of the amendment made to that section by sub-para. (1) of the present paragraph is to allow all unestablished service between 1919 and 1935 to count towards established service in the same way as unestablished service after 1935 counts towards such established service. The persons primarily intended to be benefited by this provision are the Lytton and Southborough entrants to the civil service, but the provision is framed in sufficiently broad terms to enable the inclusion of any persons whom the Treasury may, by regulation, specify.

*Sub-para. (2).*—The second sub-paragraph makes provision for the payment of pensions to age-barred officers, namely, those officers who, when they would otherwise have been established, had passed the age of 50, and were, therefore, not established since they would not, by reason of age, have been eligible to receive superannuation allowances.

*Regulations.*—Under this paragraph the Treasury have made the Superannuation (Unestablished Service) Regulations, 1946 (S. R. & O., 1946, No. 1772), *post*.

4. Subsection (2) of section three of the Superannuation Act, 1935, shall have effect, and shall be deemed always to have had effect, as if for paragraph (c) thereof there were substituted the following paragraph—

" (c) that, subject as aforesaid, a person admitted into the civil service with a certificate from the Civil Service Commissioners shall, if before the certificate was issued he was for any period serving the State in an unestablished capacity, be treated for the purpose of the preceding subsection as having become a civil servant at such date after the beginning of that period and before the certificate was issued as the Treasury may determine (not being a date earlier than that on which the Treasury had decided to recognise the post in which he was serving as an established post), and that any service of his in an unestablished capacity after the date determined shall be reckoned for the purposes of the Superannuation Acts as service in the capacity of a civil servant "

*Superannuation Act, 1935, s. 3 (2) (c).*—For the original para. (c) of s. 3 (2) of the Superannuation Act, 1935, see 28 Halsbury's Statutes 298.

*Certificate from the Commissioners.*—As to certificates from the Civil Service Commissioners, see s. 17 of the Superannuation Act, 1834 (16 Halsbury's Statutes 184).

5. Where a married woman who before her marriage was employed as a civil

servant has in consequence of her marriage been transferred to employment in a capacity in respect of which a superannuation allowance cannot be granted under the Superannuation Acts, and no gratuity was paid to her on her marriage in respect of her service as a civil servant, then for the purposes of section four of the Superannuation Act, 1887 (which provides for gratuities on the retirement of persons not entitled to superannuation allowances), her said service shall be treated as if it were service in the capacity to which she was transferred as aforesaid.

*Superannuation Act, 1887, s. 4.*—16 Halsbury's Statutes 567.

6. Section nine of the Superannuation Act, 1935 (which relates to the superannuation of persons transferring between local authority service and the Civil Service), shall have effect and shall be deemed always to have had effect as if in paragraph (b) of subsection (2) thereof for the words "on retirement from the civil service of the State" there were substituted the words "if he retires from the civil service of the State, or from any other public office (as defined by section four of the Superannuation Act, 1892) or from employment recognised by the Treasury as being employment to which it is expedient that the provisions of section four of the Superannuation Act, 1914, should apply".

*Superannuation Act, 1892, s. 4.*—16 Halsbury's Statutes 686.

*Superannuation Act, 1914, s. 4.*—See *ibid.* 773.

*Superannuation Act, 1935, s. 9.*—28 Halsbury's Statutes 302.

7.—(1) The said section nine of the Superannuation Act, 1935, shall have effect and shall be deemed always to have had effect as if the expression "local authority" therein—

(a) meant any authority which is, or is treated as, an employing authority or a Local Act authority for the purposes of the Local Government Superannuation Act, 1937, or the Local Government Superannuation (Scotland) Act, 1937, whether by virtue of the provisions thereof or by virtue of, or of any instrument having effect under, any other enactment, and

(b) included any authority appearing to the Treasury to correspond, for the purpose of provisions relating to superannuation of any local Act, with a local authority as defined by the foregoing provisions of this paragraph;

and accordingly the said section nine shall be amended, as from the coming into operation thereof, by the substitution, for the words in paragraph (a) of subsection (6) thereof from "means" to the end of the paragraph, of the words "shall be construed in accordance with the provisions of paragraph 7 of the Second Schedule to the Superannuation Act, 1946," and by the omission of subsection (7) thereof.

(2) Any person who under section twenty of the Local Government Superannuation Act, 1937 (which relates to clerks and assistant clerks to justices), is deemed for the purposes of that Act to be a contributory employee of a local authority shall be deemed to be such an employee for the purposes also of the said section nine of the Superannuation Act, 1935.

(3) Where under any enactment relating to the superannuation of officers or servants of an authority (in this sub-paragraph referred to as the "employing authority"), or any class of such officers or servants, the fund out of which superannuation benefits are payable is administered by an authority other than the employing authority, references in paragraph (b) of subsection (2), paragraph (b) of subsection (3) and paragraph (b) of subsection (6) of the said section nine of the Superannuation Act, 1935, to the receipt from the authority of payments or allowances shall have effect, and be deemed always to have had effect, as if they were references to the authority by whom the fund is administered.

(4) In this paragraph the expression "authority" includes any person or body of persons.

*Superannuation Act, 1935, s. 9.*—28 Halsbury's Statutes 302; for the original definition of "local authority" in that section, see sub-s. (6) (a) thereof, *ibid.* 303; for sub-s. (7), see *ibid.*

*Local Government Superannuation Act, 1937.*—30 Halsbury's Statutes 385; "employing authority" and "Local Act authority" are defined in s. 1 (3) thereof, *ibid.* 388; for s. 20 thereof, see *ibid.* 403.

8.—(1) The rules made by the Treasury under the said section nine may be

amended in accordance with the provisions of the two last foregoing paragraphs by rules made by the Treasury under this paragraph with effect from such date after the commencement of the said Act of 1935 as may be provided by the amending rules.

(2) Section sixteen of the said Act of 1935 (which requires rules under the said section nine to be laid before Parliament) shall apply to rules made under this paragraph.

(3) The said section nine, and the rules made thereunder, as amended as aforesaid, shall apply in relation to persons subject to any scheme to which section five of this Act applies, but subject to such modifications as may be prescribed by regulations made by the Treasury under this Act. [1279]

## ORDERS, CIRCULARS AND MEMORANDA

### THE SUPERANNUATION (ALLOCATION OF PENSION) RULES, 1946

*S. R. & O., 1946, No. 503*

*April 5, 1946*

The Lords Commissioners of His Majesty's Treasury, in pursuance of the powers conferred upon them by Section 2 of the Superannuation Act, 1935, and of all other powers enabling Them in that behalf, hereby make the following Rules :—

1. These Rules may be cited as the Superannuation (Allocation of Pension) Rules, 1946, and the Superannuation (Allocation of Pension) Rules, 1935, and these Rules may be cited together as the Superannuation (Allocation of Pension) Rules, 1935 and 1946; and these Rules shall be construed as one with the Superannuation (Allocation of Pensions) Rules, 1935 (hereinafter referred to as the "Principal Rules"). [1280]

2. Where it is shown to the satisfaction of the Treasury that by reason of the beneficiary's inability through infirmity or other sufficient cause, he is unable to write his signature as required by Rules 11 and 16 of the Principal Rules, the Treasury may, if they think fit, dispense with the beneficiary's signature, subject to such conditions as they may deem desirable. [1281]

3. Where a retiring officer has declared a desire to surrender an amount of his pension which is more than one-third of his pension contrary to the requirements of Rule 8 of the Principal Rules, then the Treasury may make an award as if the officer had declared a desire to surrender the maximum amount which he is allowed to surrender under the Principal Rules. [1282]

4. Where the Treasury are satisfied that, as a result of exceptional circumstances beyond the control of an officer eligible to make an allocation, it is not, or has not been, practicable for that officer to carry through in due time all the steps necessary to enable him to make an allocation, then the Treasury may appoint a special closing date for the purposes of these Rules. [1283]

5. When, on considering the result of the medical examinations provided for under Rule 13 of the Principal Rules in conjunction with the officer's sick leave record, the Civil Service Commissioners are not satisfied that the officer is of good health, but it appears to the Commissioners that the disability from which the officer is suffering may be temporary and that there is a good prospect that the officer would be shown to be in good health if examined again after a short interval, then the Treasury may, at the request of the Commissioners, appoint a special closing date in order that a further medical

examination may be arranged accordingly at a later date. Any fee required for such further medical examination shall be paid by the Commissioners. [1284]

6. When an officer who upon retirement is eligible to make an allocation is at the time he is retired detained as a prisoner-of-war or internee by a Power with whom His Majesty is at war, so that it is not practicable at that time for that officer to be medically examined in accordance with the provisions of Rule 13 of the Principal Rules, then it shall be open to the Civil Service Commissioners to require such evidence as they think fit as to the health of the officer at the time of his retirement. The fees for any medical examinations required by the Commissioners for this purpose shall be paid by the officer in accordance with Rule 13 of the Principal Rules. [1285]

7. Paragraph (3) of Rule 13 of the Principal Rules shall be amended by the omission of the words "as a result of that examination" and the substitution in their place of the words "on considering the result of that examination, in conjunction with the officer's sick leave record". [1286]

8. (i) If, as a result of an examination by a medical referee made in accordance with paragraph 3 of Rule 13 of the Principal Rules, the Civil Service Commissioners are of opinion that there is doubt whether the officer is of good health, they may offer him an opportunity to be examined by a Medical Board of three members appointed by them.

(ii) Where an examination takes place in accordance with the foregoing paragraph of this Rule no fee in respect thereof shall be payable by the officer and the Treasury may appoint a special closing date for the purposes of these Rules.

(iii) If, after the Civil Service Commissioners have decided, as a result of an examination by a medical referee made in accordance with paragraph 3 of Rule 13 of the Principal Rules, that the officer is not of good health, the officer produces to them a report, containing a contrary opinion, made by a physician or surgeon of consultant standing who had before him at the time he made the report a full statement of the officer's sick leave record, the Commissioners may offer the officer an opportunity to be examined by a Medical Board constituted as provided in paragraph 1 of this Rule and for the purpose of enabling such examination to take place the Treasury may appoint a special closing date for the purposes of these Rules.

(iv) When the officer elects to be examined by a Medical Board in accordance with the foregoing paragraph of this Rule he shall, prior to such examination, pay to the Civil Service Commissioners in respect thereof a fee of £3 3s. 0d. (or such amount as may be prescribed by the Commissioners but not exceeding £3 3s. 0d.). Any such fee paid by the officer shall be repaid to him if, as a result of the examination by the Medical Board, the Commissioners decide that he is of good health. [1287]

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## THE LOCAL GOVERNMENT AND METROPOLITAN POLICE STAFFS (SUPERANNUATION) ORDER, 1946

*S. R. & O.*, 1946, No. 1391

*August 14, 1946*

Whereas under the Metropolitan Police Staff (Superannuation) Acts, 1875 to 1931, both as originally enacted and as applied by section five of the Metropolitan Police Courts Act, 1897, and as extended by the Superannua-

tion (Various Services) Act, 1938, the Secretary of State is authorised to make by Order regulations respecting the grant to officers to whom those Acts apply and to their legal personal representatives, widows and dependants of superannuation allowances, compensations, gratuities or other allowances on the like principles and conditions as are for the time being in force with respect to persons in the Civil Service of the State :

Now therefore I, the Right Honourable James Chuter Ede, one of His Majesty's Principal Secretaries of State, in pursuance of the said Acts, do by this Order make the following regulations :—

1. This Order may be cited as the Local Government and Metropolitan Police Staffs (Superannuation) Order, 1946. [1288]

2. In this Order—

- (i) the expression “ local authority ” means, in relation to England and Wales, any body having power to levy a rate or to issue a precept to a rating authority ; and “ rate ” and, except in relation to London, “ rating authority ” have respectively the same meanings as in the Rating and Valuation Act, 1925 ; and the expression “ local authority ” has, in relation to Scotland, the same meaning as in the Local Authorities Loans (Scotland) Act, 1891 ;
- (ii) the expression “ pensionable officer ” means, in relation to a local authority, any officer or servant of that local authority whose service qualifies or entitles him, or would if it continued for a sufficient period qualify or entitle him, to receive from the local authority, on retiring from its service, an annual superannuation allowance ;
- (iii) the expression “ police service ” means service in a pensionable situation, the salary in respect of which is paid out of the Metropolitan Police Fund,
  - (a) under the Commissioner of Police of the Metropolis or the Receiver for the Metropolitan Police District, otherwise than as a constable ;
  - (b) as a member of the staff of the Metropolitan Police Courts.

[1289]

3. This Order shall apply to any local authority in Great Britain to which, upon the application of that authority, the Secretary of State has directed that it shall apply. [1290]

4. The Local Government and Civil Service (Superannuation) Rules, 1936, shall, subject to the modifications set out in the Schedule to this Order, apply with respect to—

- (a) a pensionable officer of a local authority to which this Order applies who becomes employed in police service, and
- (b) a person employed in police service who becomes a pensionable officer of a local authority to which this Order applies,

as if those Rules as so modified were herein set out. [1291]

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## SCHEDULE

### *Modifications of the Local Government and Civil Service (Superannuation) Rules, 1936*

1.—(1) References to the Civil Service and to service in an established capacity in the Civil Service shall be construed as references to police service ; and references to an established civil servant (whether with or without any exception or qualification) shall be construed as references to a person employed in police service.

(2) References to the Department of the Civil Service to which an officer is appointed or in which he is employed shall be construed—

- (i) in the case of a person appointed to or employed in service under the Commissioner of Police of the Metropolis, as references to the said Commissioner of Police ;
- (ii) in the case of a person appointed to or employed in service under the Receiver for the Metropolitan Police District, as references to the said Receiver ; and
- (iii) in the case of a person appointed to or employed in service as a member of the staff of the Metropolitan Police Courts, as references to the Chief Magistrate of the Metropolitan Police Courts.

(3) (a) References to “ the Superannuation Acts ” shall be construed as references to the Orders made by the Secretary of State in pursuance of the powers conferred on him by the Metropolitan Police Staff (Superannuation) Act, 1875, both as originally enacted and as amended, applied and extended by any other Acts.

(b) References to the Superannuation Act, 1859, shall be construed as references to the Order of the Secretary of State made in pursuance of the aforesaid powers and dated 1st January, 1876.

(c) References to section 2 of the Superannuation Act, 1887, shall be construed as references to the Order of the Secretary of State made in pursuance of the aforesaid powers and dated 22nd November, 1919.

(d) References to the Superannuation Act, 1909, shall be construed as references to the Order of the Secretary of State made in pursuance of the aforesaid powers and dated 22nd March, 1910, references to section 2 (2) of the said Act shall be construed as references to Article 3 (2) of the said Order as amended by Article 6 of the Order of the Secretary of State made in pursuance of the aforesaid powers and dated 14th June, 1939, and references to section 6 of the said Act shall be construed as references to Article 6 of the said Order dated 22nd March, 1910.

(4) References to the Treasury shall be construed as references to the Secretary of State.

(5) References to a person who is or was subject to the Local Government and other Officers’ (Superannuation) Act, 1922, or to that Act as modified by section 124 of the Local Government Act, 1929, or section 7 of the Local Government (Scotland) Act, 1929, shall be construed as references to a person who is or was a contributory employee under and within the meaning of Part I of the Local Government Superannuation Act, 1937, or Part I of the Local Government Superannuation (Scotland) Act, 1937, as the case may be.

2. The words “ or the Unemployment Assistance Board (Superannuation) Rules, 1935, or section 11 (9) (b) of the Mental Treatment Act, 1930,” wherever they occur, shall be omitted.

3. In paragraph (1) of Rule 2 the definition of “ the Civil Service ” shall be omitted, and there shall be inserted—

- (i) the definitions of “ local authority ”, “ pensionable officer ” and “ police service ” set out in Article 2 of this Order ; and
- (ii) the following definition, namely—

“ ‘ pensionable local authority service ’ has the meaning assigned to that expression by section 51 of the Unemployment Act, 1934.”

4. Rule 3 shall be omitted. [1292]

## THE SUPERANNUATION (UNESTABLISHED SERVICE) REGULATIONS, 1946

*S. R. & O.*, 1946, No. 1772

October 31, 1946

The Lords Commissioners of His Majesty’s Treasury, in exercise of the powers conferred upon Them by Section 3 of, and paragraph 3 of the Second



Schedule to, the Superannuation Act, 1946, and of all other powers enabling them in that behalf hereby made the following Regulations :—

**1. Citation, interpretation and commencement.**—(1) These Regulations may be cited as the Superannuation (Unestablished Service) Regulations, 1946.

(2) References in these Regulations to any enactment shall be construed, except where otherwise stated, as references to that enactment as amended by any subsequent enactment or regulation.

(3) Subject as aforesaid the Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

(4) These Regulations shall come into force on the 5th November, 1946.  
[1293]

**2. Extension of subsection (1) of Section 3 of the Superannuation Act, 1935.**—Subject to the provisions of these Regulations, sub-section (1) of Section 3 of the Superannuation Act, 1935 (which provides, in the case of persons entering on service in an unestablished capacity after the 26th June, 1935, and subsequently becoming civil servants, that their service in an unestablished capacity shall, as to one-half of the period thereof, be reckoned for the purposes of the Superannuation Acts as service as a civil servant), shall extend and the relevant provisions of these Regulations shall apply to any person who was in continuous service in an unestablished capacity for any period during the period beginning with the 1st January, 1919, and ending with the 27th June, 1935, and, immediately upon the termination of such continuous service became or becomes a civil servant.

Provided that that person is not a person in respect of whose service in a temporary capacity the Treasury, by virtue of Section 3 of the Superannuation Act, 1887, have made or may make an award more favourable than an award that, but for this proviso, they would be empowered to make under these Regulations in respect of the said continuous service of that person.  
[1294]

**3. Age-barred persons.**—(1) Subject to the provisions of these Regulations, any person to whom the provisions of Section 3 of the Superannuation Act, 1935, either as originally enacted or as extended by the last foregoing Regulation would have applied but for the fact that he was not appointed a civil servant solely on the ground that by reason of his age he would not if appointed a civil servant have become eligible to receive a superannuation allowance on retirement at the retiring age, shall be treated, for the purposes of the Superannuation Acts, as if he had been appointed a civil servant on the day when, but for the existence of that ground, he would have been so appointed and the said Section 3 as extended as aforesaid and the relevant provisions of these Regulations shall apply to that person accordingly.

(2) Any award under the Superannuation Acts to a person referred to in the last foregoing paragraph of this Regulation, being a female person who, under that paragraph, falls to be treated as if she had been appointed a civil servant on a date before the 27th June, 1935, shall be calculated in accordance with the provisions of the Superannuation Act, 1859, provided that if that person elects, within three months of the sending to her of a notice of election, that the said award shall be calculated in accordance with the provisions of the Superannuation Act, 1909, the award shall be so calculated, and the amount of additional allowance payable on retirement shall be increased by one half per cent. in respect of each completed year before the said 27th June which may be reckoned, for the purposes of the Superannuation Acts, as service in the capacity of a civil servant.



(3) No election under this Regulation shall be made in respect of the service of a deceased person. [1295]

**4. Computation of service and awards.**—(1) Directions of the Treasury issued under sub-section (2) of the said Section 3 of the Superannuation Act, 1935, shall apply for the purpose of computing the service in an unestablished capacity of any person to whom these Regulations apply.

(2) The method of computing awards set out in Section 4 of the Superannuation Act, 1935, shall apply to awards granted by virtue of these Regulations other than awards under the Superannuation Act, 1859, to persons referred to in paragraph (2) of the last foregoing Regulation. [1296]

**5. Elections.**—Elections made under these Regulations shall be made in the manner approved by the Treasury for that purpose or in a manner similar thereto. [1297]

**6. Persons to whom and period in respect of which payments are to be made.**—(1) Subject to the provisions of these Regulations, payment of any sum awarded by virtue of these Regulations shall be made to the person entitled to the payment of any award specified in the next following paragraph at the date of the retirement or death of the officer in respect of whose service the award was made (which officer is hereinafter in this Regulation referred to as “the pensioner”), but if that person is dead or, within six months or such longer period as the Treasury may, in any particular case, determine after the making of an award under these Regulations, cannot be found, payment shall be made

- (a) to the pensioner's wife (including a dependant of the pensioner not married to him but living with him as his wife) or husband, as the case may be, but if there is no such person, then
- (b) to and among the children or grandchildren of the pensioner, but if there are no such children or grandchildren, then
- (c) to and among the parents or grandparents if then living of the pensioner,

so, however, that the Treasury may, in any case the circumstances of which appear to them to be exceptional, whether for reasons of hardship or otherwise, make any such payment to or among any of the persons referred to in sub-paragraphs (a), (b) and (c) of this paragraph or any other person appearing to them to be or to have been a dependant of the pensioner.

(2) The awards referred to in the last foregoing paragraph are :

- (a) additional allowances under Section 1 of the Superannuation Act, 1909,
- (b) death gratuities under Section 2 of the Superannuation Act, 1909,
- (c) short service gratuities under Section 6 of the Superannuation Act, 1859,
- (d) compassionate gratuities under Section 4 of the Superannuation Act, 1887.

(3) Subject to the provisions of these Regulations, any superannuation allowance payable by virtue of these Regulations shall be payable from the 1st April, 1946, or from such later date as, in accordance with the provisions of these Regulations, a person becomes entitled thereto. [1298]

**7. Provisions relating to allocation of part of Superannuation benefits to dependants.**—(1) Where any person to whom these Regulations apply has retired, and, by virtue of these Regulations, is granted any annual superannuation, compensation or retiring allowance under the Superannuation Acts, that person may not surrender any part thereof to any other person.

(2) Where any person to whom these Regulations apply is in receipt of

any annual superannuation, compensation or retiring allowance granted to him under the Superannuation Acts, and has surrendered any part thereof pursuant to the provisions of Section 2 of the Superannuation Act, 1935, and where by virtue of these Regulations that person is granted any further such allowance, there shall be no adjustment of the part of the allowance so surrendered. [1299]

**8. Adjustment of compassionate gratuities or additional allowances and superannuation awards granted by virtue of these Regulations.**—(1) Where any person to whom these Regulations apply has received or would, but for the provisions of this paragraph, have received a compassionate gratuity under Section 4 of the Superannuation Act, 1887, a gratuity under Section 6 of the Superannuation Act, 1859, or an additional allowance under subsection (2) of Section 1 of the Superannuation Act, 1909, and, by virtue of these Regulations, is granted an award under the Superannuation Acts, that award shall be adjusted by the deduction therefrom of the amount of the said gratuity or allowance and no payment shall be made in respect of the said award unless and until the amount which, but for the provisions of this paragraph, would have been payable in respect of the said award exceeds the amount of the said gratuity or allowance.

(2) Where a person to whom these Regulations apply has been granted a compassionate gratuity under Section 4 of the Superannuation Act, 1887, and has subsequently re-entered service in an unestablished capacity and has not repaid his gratuity (in order that his periods of service may be aggregated for the purposes of awards under the Superannuation Acts) solely on the grounds that one or more of such periods of service would not reckon for the purposes of the Superannuation Acts under Section 3 of the Superannuation Act, 1887, then, if, by virtue of these Regulations, any such period may now be reckoned for those purposes, that person may repay that gratuity for the purposes aforesaid. [1300]

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### EXPLANATORY NOTE

*(This Note is not part of these Regulations but is intended to indicate their general purport)*

*The Regulations are designed to give effect to various recommendations contained in the report of the Civil Service National Whitley Council's Committee on the Pensionability of Unestablished Service (Cmd. 6942) to which reference should be made for a more detailed explanation of the intentions of the Regulations. The persons affected by the Regulations are certain civil servants who had periods of unestablished service subsequent to 1st January, 1919, prior to being established and certain other civil servants ("age-barred officers") who, for reasons of age, failed to secure established posts. The purpose of the Regulations is to enable the Treasury to grant some of these civil servants pensions or gratuities which could not have been awarded under previous legislation, and to increase the amount of pension or gratuity payable to certain others.*

*The main purposes of the Regulations are*

- (a) to provide for a general ante-dating to the 1st January, 1919, of the provisions of Section 3 of the Superannuation Act of 1935, under which, subject to certain conditions, unestablished service prior to establishment may reckon as to one-half for superannuation purposes,*
- (b) to enable pensions to be awarded to "age-barred officers" in certain circumstances.*

*Payments of pension (or of increased pension) under the Regulations are to be made as from 1st April, 1946, or date of retirement, whichever is the later.*

*In this Note, the term "civil servant" is used, as in common parlance, to include both established and unestablished civil servants, but in the Regulations themselves the terms, as under the Superannuation Acts, is used to denote established civil servants only.*

## THE METROPOLITAN POLICE STAFFS (ALLOCATION OF SUPERANNUATION BENEFITS) ORDER, 1946

S. R. & O., 1946, No. 2103

December 11, 1946

Whereas under the Metropolitan Police Staff (Superannuation) Acts, 1875 to 1931, both as originally enacted and as applied by section five of the Metropolitan Police Courts Act, 1897, and as extended by the Superannuation (Various Services) Act, 1938, the Secretary of State is authorised to make by Order regulations respecting the grant to officers to whom those Acts apply and to their legal representatives, widows and dependants of superannuation allowances, compensations, gratuities or other allowances on the like principles and conditions as are for the time being in force with respect to persons in the Civil Service of the State, with power to permit the like allocation of superannuation benefits to spouses and dependants as could be granted or permitted in respect of persons in the Civil Service of the State under the enactments, rules, regulations and warrants for the time being in force in relation to the last-mentioned persons :

Now, therefore, I, the Right Honourable James Chuter Ede, one of His Majesty's Principal Secretaries of State, in pursuance of the said Acts, do by this Order make the following regulations :—

1. This Order may be cited as the Metropolitan Police Staffs (Allocation of Superannuation Benefits) Order, 1946, and shall be construed as one with the Order of the Secretary of State made in pursuance of the Metropolitan Police Staff (Superannuation) Acts, 1875 to 1931, and the Superannuation (Various Services) Act, 1938, and dated the twenty-eighth day of August, 1939, enabling officers of the staffs of the Metropolitan Police and Metropolitan Police Courts to make an allocation to spouses and dependants of part of their superannuation benefits (which Order is hereinafter referred to as "the principal Order"), and the principal Order and this Order may be cited together as the Metropolitan Police Staffs (Allocation of Superannuation Benefits) Orders, 1939 and 1946. [1301]

2. Where it is shown to the satisfaction of the Secretary of State that by reason of the beneficiary's inability through infirmity or other sufficient cause he is unable to write his signature as required by Articles 11 and 16 of the principal Order, the Secretary of State may, if he thinks fit, dispense with the beneficiary's signature, subject to such conditions as he may deem desirable. [1302]

3. Where a retiring officer has declared a desire to surrender an amount of his pension which is more than one-third of his pension contrary to the requirements of Article 8 of the principal Order, the Secretary of State may make a grant as if that officer had declared a desire to surrender the maximum amount which he is allowed to surrender under the principal Order. [1303]

4. Where the Secretary of State is satisfied that, as a result of exceptional circumstances beyond the control of an officer eligible to make an allocation, it is not, or has not been, practicable for that officer to carry through in due time all the steps necessary to enable him to make an allocation, the Secretary

of State may appoint a special closing date for the purposes of the principal Order as amended by this Order. [1304]

5. When, on considering the result of the medical examinations provided for under Article 14 of the principal Order in conjunction with the officer's sick leave record, the Civil Service Commissioners are not satisfied that the officer is of good health, but it appears to the Commissioners that the disability from which the officer is suffering may be temporary and that there is a good prospect that the officer would be shown to be in good health if examined again after a short interval, the Secretary of State may, at the request of the Commissioners, appoint a special closing date in order that a further medical examination may be arranged accordingly at a later date and the officer shall not be required to pay any fee for such further medical examination. [1305]

6. When an officer who upon retirement is eligible to make an allocation is at the time he is retired detained as a prisoner of war or internee by a Power with whom His Majesty is at war so that it is not practicable at that time for that officer to be medically examined in accordance with Article 14 of the principal Order, it shall be open to the Civil Service Commissioners to require such evidence as they think fit as to the health of the officer at the time of his retirement; and the fees for any medical examinations required by the Commissioners for this purpose shall be paid by the officer in accordance with Article 14 of the principal Order. [1306]

7. Paragraph (3) of Article 14 of the principal Order shall be amended by the omission of the words "as a result of any such examination" and the substitution in their place of the words "on considering the result of any such examination, in conjunction with the officer's sick leave record". [1307]

8.—(1) If, as a result of an examination by a medical referee made in accordance with paragraph (3) of Article 14 of the principal Order, the Civil Service Commissioners are of opinion that there is doubt whether the officer is of good health, they may offer him an opportunity to be examined by a Medical Board of three members appointed by them.

(2) Where an examination takes place in accordance with the foregoing paragraph of this Article, no fee in respect thereof shall be payable by the officer and the Secretary of State may appoint a special closing date for the purposes of the principal Order as amended by this Order.

(3) If, after the Civil Service Commissioners have decided as a result of an examination by a medical referee made in accordance with paragraph (3) of Article 14 of the principal Order that the officer is not of good health, the officer produces to them a report, containing a contrary opinion, made by a physician or surgeon of consultant standing who had before him at the time he made the report a full statement of the officer's sick leave record, the Commissioners may offer the officer an opportunity to be examined by a Medical Board constituted as provided in paragraph (1) of this Article and for the purpose of enabling such examination to take place the Secretary of State may appoint a special closing date for the purposes of the principal Order as amended by this Order.

(4) When the officer elects to be examined by a Medical Board in accordance with the last foregoing paragraph of this Article, he shall, prior to such examination, pay to the Civil Service Commissioners in respect thereof a fee of £3 3s. 0d. (or such amount as may be prescribed by the Commissioners but not exceeding £3 3s. 0d.); and any such fee paid by the officer shall be repaid to him if, as a result of the examination by the Medical Board, the Commissioners decide that he is of good health. [1308]

Circular 11/46

*County Councils*  
*County Borough Councils*  
*Metropolitan Borough Councils*  
*Common Council of the City of London*  
*County District Councils*  
*Joint Boards and Catchment Boards*  
*Assessment Committees*  
*Visiting Committees*  
*Joint Committees*

MINISTRY OF HEALTH,  
 WHITEHALL,  
 LONDON, S.W.1.  
 15th January, 1946.

SIR,

## PENSIONS (INCREASE) ACT, 1944

I am directed by the Minister of Health to refer to circular 214/45 of 14th December, 1945, from this Department, in which it was stated that a further communication would be sent to you when the Treasury had issued the amending Regulations which were necessary by reason of the extension of the operation of the Pensions (Increase) Act, 1944, until 31st March, 1947. [1309]

I am to enclose, for the information of your Authority, a copy of the Increase of Pensions (General) (Amendment) (No. 2) Regulations, 1945, which the Treasury have made in consequence of the extension of the Act. Regulation 2 makes provision for the extension up to the 31st March, 1947, of the period for which the increases of pension authorised by the Principal Regulations may be granted and enables the local authority to continue without break as from 1st January, 1946, the payment of the authorised increases. Regulation 3 has no application to local authority pensioners. [1310]

The Treasury have not felt it necessary to provide in these Regulations for the making of fresh declarations by pensioners in respect of the period of extension. It is, of course, always open to a pension authority under Regulation 9 of the Principal Regulations to require documentary evidence as to income, etc., if the authority has any reason to think that there has been a change of circumstances which might affect the pensioner's eligibility for pension increase. In any event when pensioners are informed that their pension increase can now be continued for a further fifteen months, the opportunity might well be taken of reminding the pensioners of their obligation under Regulation 8 of the Principal Regulations to report promptly any change of circumstances which might affect their eligibility for pension increase. [1311]

An additional copy of this circular and the new Regulations is enclosed for the information of the Financial Officer of the Authority and further copies may be purchased directly from His Majesty's Stationery Office, or through any bookseller. [1312]

I am, Sir, etc.

\* \* \* \*

The Clerk to the Authority.

## CASES

*Local Government—Superannuation of officers—Assessment of superannuation allowance—Remuneration of borough treasurer acting as local fuel overseer—Superannuation rights regulated by local Act—Local Government Superannuation Act, 1937, s. 40 (3), not applicable to employees of local Act authorities—Employment not to be treated as two separate employments—"Officer"—"Emoluments"—Paddington Borough Council (Superannuation and Pensions)*

*Act, 1911 (c. ci), ss. 3, 4, 5, 13, London County Council (General Powers) Act, 1928 (c. lxxvii), Part VII—Local Government Superannuation Act, 1937 (c. 68), ss. 1, 3, 8, 26, 40 (3)—Local Government Superannuation (Administration) Regulations, 1938 (S. R. & O., 1938, No. 574), art. 4—Fuel and Lighting Order, 1939 (S. R. & O., 1939, No. 1028), art. 16 (1)—Paddington Borough Council Superannuation Scheme, 1938, arts. 4, 13 (2), 15.*

In 1903, at the age of 22, W. became an officer of the Paddington Borough Council. In 1923, he was appointed borough treasurer and had held that office continuously, as an officer in an established capacity and duly placed on the permanent staff, until 1945, when he reached the age of 65, which was the age of compulsory retirement under the Paddington Borough Council (Superannuation and Pensions) Act, 1911. By s. 5 of that Act, after 10 years' service an officer was entitled to a certain proportion (varying with the length of his service) "of the average amount of his salary or wages and emoluments during the 5 years ending on the quarter day which immediately precedes the day on which he ceases to hold his office." The Act further provided that an officer had to contribute  $2\frac{1}{2}$  per cent. of "his salary, wages and emoluments" to the superannuation fund, and by the London County Council (General Powers) Act, 1928, this amount was raised to 3 per cent., and to 5 per cent. for officers appointed after 1928. "Officer" was defined in the Acts as "every officer in the service of the council in an established capacity and duly placed on the permanent staff," and "emoluments" as including "all fees, poundage and other payments made to any officer or servant as such" but not including "casual payments or gratuities or payments in respect of overtime." The "local Act scheme" under which W. was serving differed from the scheme prescribed by the Local Government Superannuation Act, 1937. Pursuant to this latter Act, the Paddington Council made an amending scheme in 1938, but under this scheme a person who had attained the age of 55 (and could not therefore complete 10 years' service before attaining the age of compulsory retirement) was not entitled to participate in the benefits of the superannuation fund. In September, 1939, an emergency committee of the council appointed W. local fuel overseer under the Fuel and Lighting Order, 1939, but nothing was said about remuneration. On February 12, 1940, the committee resolved to grant an honorarium of £50 for the 4 months ending December 31, 1939, "to the borough treasurer for services rendered under the Fuel and Lighting Order, 1939." On December 16, 1940, the committee "considered the question of fixing the remuneration of the borough treasurer in his capacity of local fuel overseer" and resolved that W.'s remuneration as local fuel overseer be fixed at £150 per annum as from January 1, 1940. From this £150 a year, W. had deducted 3 per cent. as contribution to the superannuation fund. The question to be determined was whether the superannuation allowance payable to W. was to be based merely upon what he had earned as borough treasurer or whether what he had received for his duties as local fuel overseer should also be brought into consideration. Under the Local Government Superannuation Act, 1937, s. 40 (3): "Where an employee holds under a local authority two or more separate employments of such a nature that he can cease to hold one without ceasing to hold the other or others, the provisions of this Act shall, unless the context otherwise requires, apply as respects him in relation to each of those separate employments as if the other or others were an employment or employments held by him under another authority." It was contended by the council that this section applied to W. in relation to his employment as borough treasurer and local fuel overseer; his employment in these two capacities must be treated as separate employments and, therefore, the remuneration received by W. as local fuel overseer could not be included in his superannuation allowance



because he was over 55 when appointed to that post. The council further contended that the rate of contribution payable by W. to the superannuation fund in respect of the remuneration received by him as local overseer was 5 per cent., and not 3 per cent. On behalf of W., it was contended that, for the purposes of the Superannuation Acts, his employment should be treated as that of an officer and not as two separate employments, and that his superannuation allowance should be calculated on the average of all that he had received in the 5 years previous to his compulsory retirement (as provided by s. 5 of the 1911 Act):—

*Held*: (i) upon the true construction of the Local Government Superannuation Act, 1937, s. 40 (3) thereof did not apply to W. in relation to his employment as borough treasurer and local fuel overseer, because W.'s superannuation rights were regulated by the provisions of the Paddington Borough Council (Superannuation and Pensions) Acts, 1911–1938 (local Acts) and not by the Local Government Superannuation Act, 1937. S. 40 (3) of the 1937 Act merely provided that, where the provisions of that Act applied, they should apply in a particular way.

(ii) for the purposes of the Superannuation Acts, W. was to be regarded as an officer, and his employment should not be treated as two separate employments. Superannuation rights were paid not in respect of an office, but were earned by an officer for services rendered. On the facts of the case, the £150 per annum paid to W. for his services as local fuel overseer was an emolument paid to him as borough treasurer for extra services rendered by him as borough treasurer. He was, therefore, entitled to have it brought into account in the calculation of his superannuation allowance, which was to be assessed on all his receipts for the 5 years previous to his retirement.

*R. v. Lyon, Ex parte Harrison*, [1921] 1 K. B. 203, *applied*.

(iii) The rate of contribution payable by W. to the superannuation fund in respect of the remuneration received by him as local fuel overseer was 3 per cent.—*Re WICKHAM AND PADDINGTON CORPN.'S ARBITRATION*, [1946] 2 All E. R. 68; *sub nom. WICKHAM v. PADDINGTON BOROUGH COUNCIL*, 110 J. P. 235; 90 Sol. Jo. 307; 44 L. G. R. 307. [1813]

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## STATUTES

### THE NEW TOWNS ACT, 1946

(9 & 10 Geo. 6, c. 68)

#### PRELIMINARY NOTE

In November, 1945, the Minister of Town and Country Planning (in conjunction with the Secretary of State for Scotland) appointed a Committee under the chairmanship of Lord Reith with the following terms of reference :—

“To consider the general question of the establishment, development, organisation and administration that will arise in the promotion of New Towns in furtherance of a policy of planned decentralisation from congested urban areas ; and in accordance therewith to suggest guiding principles on which such towns should be established and developed as self-contained and balanced communities for work and living ”.

The New Towns Act, 1946, carried out with modifications the recommendations requiring legislation made in the first and second interim Reports of the Reith Committee (Cmd. 6759, 6794). The Committee's final Report (Cmd. 6876) was presented to the Minister during the passage of the Bill and deals for the most part with matters not requiring legislation.

The development of new towns through the agency of development corporations being not dissimilar to the re-development of areas of “ extensive war damage ” by local planning committees which is provided for by the Town and Country Planning Act, 1944 (37 Halsbury's Statutes 423), many of the provisions of that Act are, in conformity with the Reith Committee's recommendations, applied by the present Act. S. 23 provides that where so applied they are, for the purposes of this Act, to be subject to the modifications set out in Sched. IV. To facilitate the understanding of this, the Minister has published a memorandum entitled “ New Towns Act, 1946, Memorandum showing application and modification of provisions of the Town and Country Planning Act, 1944 ”, which is obtainable from H.M. Stationery Office, price ninepence.

The main provisions of the Act are as follows :—

The Minister is enabled by s. 1, after consultation with the local authorities concerned, to make an order designating any area of land as the site of a proposed new town. The designated area may include within it any already existing town (s. 1 (3) ), so that a new town may in effect consist in the substantial enlargement of such a town. The Government's immediate programme contemplates the creation in England and Wales of 20 new towns including such enlargements (*per* the Minister of Town and Country Planning on the Second Reading ; 422 H. of C. Official Report 1089). The procedure to be followed in connection with the making of an order is set out in Sched. I and is similar to that laid down by the Town and Country Planning Act, 1944, s. 1 and Sched. I (37 Halsbury's Statutes 423, 483) in regard to orders designating areas of extensive war damage made under that Act. Under this procedure the order is first to be made in draft, and a public local inquiry held when objection is made ; after which the Minister may make the order with or without modification. Ss. 16 and 17 of the 1944 Act, which deal respectively with applications to the Court by persons desiring to question the validity of an order, and with the registration of orders as local land charges, are, as modified by s. 23 of Sched. IV to the present Act, made applicable to orders designating the sites of new towns (s. 1 (2) ).

To develop each new town the Minister is by order to establish a development corporation consisting of not more than 9 members including the chairman, and the provisions of Sched. II are to have effect with respect to its constitution and proceedings (s. 2 (1), (5) ). A development corporation is given wide powers to do anything necessary or expedient for the purposes of the new town, subject, however, to any directions which the Minister may give restricting the exercise of any of its powers or specifying how they are to be exercised (s. 2 (3) ). A corporation is specifically empowered to acquire land, carry out building and other operations,

and provide water, electricity and other services. Such services may, however, be provided by local authorities and statutory undertakers, and a corporation may with the Minister's consent and Treasury concurrence contribute towards expenditure incurred by them in performing any of their statutory functions in relation to the new town (s. 11).

The first task of a development corporation is to draw up proposals for the development of the new town. These need not, in the first instance, be fully detailed proposals but will generally consist in a plan in outline for the whole area showing, broadly, the location of the individual zones, commercial, residential and industrial, and of the railways and main roads, accompanied by a detailed plan for that part of the area which is to be developed first (*per* the Minister of Town and Country Planning on the Second Reading; 422 H. of C. Official Report 1081). These proposals are, in accordance with s. 3 (1), to be submitted to the Minister, who after consulting the local planning authority and any other local authority concerned, may approve them with or without modification. Permission for any development of land in accordance with such proposals may be granted by a special interim development order made by the Minister under s. 10 of the Town and Country Planning Act, 1932 (25 Halsbury's Statutes 482) (s. 3 (2)). When a planning scheme is in force with respect to any part of the area, a designation order may revoke it and such revocation will have the effect, as from the date of the registration of the order as a local land charge under the Town and Country Planning Act, 1944, s. 17 (37 Halsbury's Statutes 446) as applied and modified, of making that part of the area subject to interim development control under the Town and Country Planning Acts, 1932 and 1943 (25 Halsbury's Statutes 470; 36 Halsbury's Statutes 239).

A development corporation is empowered, with the Minister's consent, to acquire land both by agreement and compulsorily. Its power of acquisition applies not only to land within the area of the new town, but also to adjacent land and other land, whether adjacent or not, which it requires for the provision of services for the town (e.g. for a water reservoir). The provisions of the Town and Country Planning Act, 1944, Sched. II, Pt. I, are, as modified, to apply to any compulsory purchase order as they apply to an order authorising a local planning authority to acquire land compulsorily under Pt. I of that Act. In addition, for the first two years after the making of a designation order, where possession is urgently required, the speedy procedure for authorising compulsory purchases of land by means of an authorisation in writing, which is provided by the Acquisition of Land (Authorisation Procedure) Act, 1946, s. 2, *ante*, is also made applicable (s. 4 (3)); the Minister has, however, stated that it is unlikely ever to be used (H. of C. Official Report, S.C.A., May 30, 1946, col. 137). The compensation provisions of the Town and Country Planning Act, 1944, are made to apply to compulsory purchase of land by a development corporation (s. 4 (7)), and accordingly compensation therefor is, until 1951, to be assessed by reference to 1939 prices increased in the case of an owner-occupier by a maximum supplement of 60 per cent. (see ss. 57, 58 of that Act; 37 Halsbury's Statutes 476, 477; and the Acquisition of Land (Increase of Supplement) Order, 1946 (S. R. & O., 1946, No. 1163). A corporation will, presumably, not acquire all the land within the designated area immediately, but only acquire portions thereof as and when they are ready to develop them. It is intended, according to the Minister of Town and Country Planning, to develop a new town over a period of approximately ten years, and on the assumption that a period of 3 years is required from the time when land is acquired until the time when it is completely developed, acquisition of land within the designated area will be spread over a period of seven years (H. of C. Official Report S.C.A., May 30, 1946, col. 133). If any land within the area has not been acquired at the end of this period the owner may serve a notice requiring the corporation to purchase it (s. 6 (4)).

The corporation's powers of disposing of land are limited by s. 5 under which they may not mortgage or charge land, nor, except with the Minister's consent, which can be given only in exceptional cases, transfer the freehold or grant a lease for a term exceeding 99 years.

The Town and Country Planning Act, 1944, s. 3 (37 Halsbury's Statutes 428), is modified to empower local highway authorities, and the Minister of Transport in his capacity as highway authority for trunk roads, to purchase land for the construction of roads for a new town (s. 7 (1)).

It is provided that a development corporation is to be deemed a housing associa-

tion within the meaning of the Housing Act, 1936 (29 Halsbury's Statutes 565), and accordingly a local authority may make arrangements under s. 94 of that Act (*ibid.* 636) with the corporation for it to provide houses which will attract the annual exchequer contribution payable under the Housing (Financial and Miscellaneous Provisions) Act, 1946, *ante* (s. 8 (1)). The Minister may, however, approve any house built by a corporation otherwise than in pursuance of such an arrangement and pay a sum not exceeding the exchequer contribution to the corporation in respect of it (s. 8 (2)).

The Minister of Health may, by an order made under the Public Health Act, 1936, s. 6 (29 Halsbury's Statutes 326), constitute the area of the new town, or any larger area of which it forms part, a united district governed by a joint board, for the purpose of the Public Health Acts (s. 9 (1)). He may, also, on the application of the corporation and after consulting the local county council and any district councils in the area, authorise the corporation to exercise any of the powers of constructing sewers and sewage disposal works and providing a sewerage service conferred on a local authority under the Public Health Acts, 1936 and 1937 (s. 9 (2), (3)). Provision is made requiring a local sewerage authority to make a contribution towards the expense of any services so provided (s. 9 (4)).

S. 26 of the Town and Country Planning Act, 1944 (37 Halsbury's Statutes 455), providing for the extension and modification of the powers and duties of statutory undertakers and enabling them to purchase land compulsorily for the provision of services in connection with land acquired by a local planning authority under Pt. I of that Act, and s. 27 thereof (*ibid.* 456), under which relief may be granted from obligations rendered impracticable by reason of the compulsory acquisition of land belonging to them, are applied as modified by s. 23 and Sched. IV to the provision of services under the present Act (s. 10 (1)). In addition, the Minister of Fuel and Power is enabled, for the purpose of securing an efficient supply of gas or electricity in the designated area, to make an order varying the supply area of any statutory undertakers supplying electricity or gas within that area, and he can thus secure that the new town lies wholly within the supply area of one statutory undertaking (s. 10 (2)).

Advances may be made by the Minister to the corporation repayable on terms approved by the Treasury. The aggregate amount of such advances for new towns in England, Wales and Scotland is limited to £50 million (s. 12 (1)). Apart from such advances a corporation has no power of borrowing (s. 2 (2), proviso). The making of advances is conditional on the proposals for development submitted by the corporation being approved by the Minister with the concurrence of the Treasury as being likely to secure a reasonable return having regard to all the circumstances, when compared with the cost of carrying them out (s. 12 (7)).

Provision is made in regard to the accounts and annual report of a corporation (s. 13).

Provision is made enabling a corporation to transfer by agreement any part of its undertaking to a local authority or to statutory undertakers on the approval of the Minister given after consultation with any county or district council concerned (s. 14 (1)). In connection with a transfer the Minister may make an order reducing the corporation's liability in respect of advances, but any such order will require a resolution of the House of Commons approving it (s. 14 (2)).

Where the Minister is satisfied that the corporation has substantially achieved its purpose he is, with the concurrence of the Treasury, to make an order providing for its winding-up (s. 15 (1)). He may then, after consulting the local authorities and statutory undertakers affected, make a further order, also with the concurrence of the Treasury, providing for the transfer of the undertaking or any part thereof to a local authority or to statutory undertakers specified in the order on payment of such sums by them as may be specified (s. 15 (2)). If the transferee authority or undertakers object to the order within twenty-eight days, it will be subject to the special parliamentary procedure provided by the Statutory Orders (Special Procedure) Act, 1945 (38 Halsbury's Statutes 439) (s. 15 (3)). In connection with any such order, like provision to that mentioned above is made for reducing the corporation's liability in respect of advances (s. 15 (4)).

The Act contains, in addition, sections dealing with a number of subsidiary matters; such as the liability of a corporation in actions, the superannuation of corporation employees and restriction on the provision by corporations of certain public services. [1314]

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*An Act to provide for the creation of new towns by means of development corporations, and for purposes connected therewith. [1315] [1st August, 1946.]*

**1. Designation of sites of new towns.**—(1) If the Minister is satisfied, after consultation with any local authorities who appear to him to be concerned, that it is expedient in the national interest that any area of land should be developed as a new town by a corporation established under this Act, he may make an order designating that area as the site of the proposed new town. [1316]

(2) The provisions of the First Schedule to this Act shall have effect with respect to the procedure to be followed in connection with the making of orders under this section; and sections sixteen and seventeen of the Town and Country Planning Act, 1944 (which relate respectively to the validity and date of operation of orders under section one of that Act, and to the registration of such orders in the register of local land charges), shall apply to an order made under this section as they apply to an order made under section one of that Act. [1317]

(3) An order under this section may include in the area designated as the site of the proposed new town any existing town or other centre of population, and references in this Act to a new town or proposed new town shall be construed accordingly. [1318]

*The Minister.*—The Minister of Town and Country Planning (s. 26 (1)).

*Definition.*—For definition of "local authority", see s. 26 (1), *post*.

*Town and Country Planning Act, 1944, ss. 16 and 17.*—37 Halsbury's Statutes 445, 446. These two sections are modified for the purposes of the present Act by s. 23 (1) and Sched. IV, *post*. The provision made by the said s. 16 for regulating the procedure whereby aggrieved persons desiring to question the validity of an order may apply to the High Court is similar to that provided by the Housing Act, 1935, Sched. II (28 Halsbury's Statutes 261) and the Town and Country Planning Act, 1932, Sched. I, Part II (25 Halsbury's Statutes 526) and the Acquisition of Land (Authorisation Procedure) Act, 1946, Sched. I, Part IV, *ante*. As to *Stevenage*, see *Franklin v. Minister of Town and Country Planning*, [1947] 1 All E. R. 612.

*Registration of Orders.*—In pursuance of the said s. 17 of the 1944 Act, of this Act and of the Land Charges Act, 1925, s. 15 (15 Halsbury's Statutes 538), the New Towns Act, 1946 (Registration of Orders) Rules, 1946 (S. R. & O., 1946, No. 1896/L.23), have been made providing for the registration of orders made under the present section in a new part of the Local Land Charges Register to be known as Part VII. Provision is also made by these Rules for searching the Register and for the issue of official certificates of search on payment of the prescribed fees.

## 2. Establishment and general powers of development corporations.—

(1) For the purposes of the development of each new town the site of which is designated under section one of this Act, the Minister shall by order establish a corporation (hereinafter called a development corporation) consisting of a chairman, a deputy chairman and such number of other members, not exceeding seven, as may be prescribed by the order; and every such corporation shall be a body corporate by such name as may be prescribed by the order, with perpetual succession and a common seal and power to hold land without licence in mortmain. [1319]

(2) The objects of a development corporation established for the purposes of a new town shall be to secure the laying out and development of the new town in accordance with proposals approved in that behalf under the following provisions of this Act, and for that purpose every such corporation shall have power to acquire, hold, manage and dispose of land and other property, to carry out building and other operations, to provide water, electricity, gas, sewerage and other services, to carry on any business or undertaking in or for the purposes of the new town, and generally to do anything necessary or expedient for the purposes of the new town or for purposes incidental thereto:

Provided that, subject to the provisions of this Act with respect to the making of advances to development corporations, a development corporation shall not have power to borrow money. [1320]

(3) Without prejudice to any provision of this Act requiring the consent of the Minister to be obtained for anything to be done by a development corporation, the Minister may give directions to any such corporation for restricting the exercise by them of any of their powers under this Act, or for requiring them to exercise those powers in any manner specified in the directions:

Provided that—

- (a) before giving any such directions the Minister shall consult with the chairman of the corporation, or, if the chairman is not available, with the deputy chairman, unless he is satisfied that, on account of urgency, such consultation is impracticable; and
- (b) any transaction between any person and any such corporation acting in purported exercise of their powers under this Act shall not be void by reason only that it was carried out in contravention of such directions unless that person had actual notice of the directions. [1321]

(4) For the avoidance of doubt it is hereby declared that the provisions of subsection (2) of this section with respect to the powers of development corporations relate only to their capacity as statutory corporations; and nothing in this section shall be construed as authorising the disregard by a development corporation of any enactment or rule of law. [1322]

(5) The provisions of the Second Schedule to this Act shall have effect with respect to the constitution and proceedings of any development corporation established under this Act. [1323]

*General effect of section.*—See Preliminary Note, *ante*. The Reith Committee in their first interim report (Cmd. 6759) recommended that provision should be made for the development of new towns by two other types of corporation, in addition to the government-sponsored corporation which may be set up under this section. These two proposed types were a corporation sponsored by a local authority, and an authorised corporation. The recommendation was rejected by the Government chiefly on the ground that as the cost of the new towns had to be borne by the Exchequer, their development should be entrusted to a centrally appointed body.

*The Minister.*—The Minister of Town and Country Planning (s. 26 (1)).

*Advances to corporations.*—For the provisions with respect to the making of advances, see s. 12, *post*.

*Extension of corporation's responsibility.*—In exceptional circumstances a single development corporation may be made responsible for the development of more than one new town (see s. 16, *post*). The Minister on the Second Reading envisaged the possibility of such circumstances arising where there were two new towns not far apart, one being almost fully developed and the other about to be developed (422 H. of C. Official Report 1080).

*Definition.*—For definition of "development", see s. 26 (1), *post*.

**3. Planning and control of development in new towns.**—(1) The development corporation established for the purposes of a new town shall from time to time submit to the Minister in accordance with any directions given by him in that behalf their proposals for the development of land within the area designated under this Act as the site of the new town, and the Minister, after consultation with the local planning authority within whose district the land is situated, and with any other local authority who appear to him to be concerned, may approve any such proposals either with or without modification. [1324]

(2) Without prejudice to the generality of the powers conferred by section ten of the Town and Country Planning Act, 1932, a special interim development order made by the Minister under that section with respect to an area designated under this Act as the site of a new town may grant permission for any development of land in accordance with proposals approved under subsection (1) of this section, subject to such conditions, if any (including conditions requiring details of any proposed development to be submitted to the interim development authority), as may be specified in the order. [1325]

(3) In relation to development of any description which is permitted by any such order as is mentioned in the last foregoing subsection, the order may itself suspend, or may enable the Minister to suspend, any of the enactments specified in the Third Schedule to this Act (being, with the exception of sections one and two of the Restriction of Ribbon Development Act, 1935,



enactments which may be suspended, under subsection (8) of the said section ten as amended by section thirty-nine of the Town and Country Planning Act, 1944, by any authority authorised in that behalf by an interim development order). [1326]

(4) Where a planning scheme is in force with respect to any land within the area designated by an order under section one of this Act as the site of a new town, then, without prejudice to the provisions of section thirty-three of the Town and Country Planning Act, 1944, the order may revoke that scheme so far as it relates to that land; and where a scheme is so revoked—

(a) the provisions of the Town and Country Planning Acts, 1932 and 1943, with respect to the control of interim development shall, as from the date on which the order is registered under section seventeen of the Town and Country Planning Act, 1944, as applied by this Act, apply to the development of the land as if a resolution to prepare a new planning scheme had taken effect on that date; and

(b) for the purposes of any such new scheme the material date shall be the date aforesaid or such later date as may be specified in that scheme :

Provided that the proviso to the definition of "the material date" contained in section fifty-three of the Town and Country Planning Act, 1932 (which specifies the material date in relation to any provisions of a scheme which is revoked by a scheme containing the same or a similar provision), shall have effect in relation to any such new scheme as if the original scheme were revoked by that scheme. [1327]

*General effect of section.*—See Preliminary Note, *ante*.

*The Minister.*—The Minister of Town and Country Planning (s. 26 (1)).

*Definitions.*—For definition of "development", "development corporation", "local authority", "local planning authority" and "planning scheme", see s. 26 (1), *post*.

*Town and Country Planning Act, 1932.*—25 Halsbury's Statutes 482.

*Sub-s. (3).*—The effect of sub-s. (3) is to enable the Minister to suspend any of the enactments which an authority may under s. 10 (8) of the 1932 Act (*ibid.* 484) as extended by the Town and Country Planning Act, 1944, s. 39 (37 Halsbury's Statutes 465), be authorised by an interim development order to suspend. This power of suspension which was considered desirable in connection with the redevelopment of areas of extensive war damage and of bad layout and obsolete development, to which Part I of the 1944 Act related, is presumably equally appropriate to the development of new towns. In addition, the Minister is enabled to suspend ss. 1 and 2 of the Restriction of Ribbon Development Act, 1935 (28 Halsbury's Statutes 81, 82). The said s. 1 provides that no one may, without the consent of the highway authority, construct any means of access to roads to which the section applies and s. 2 restricts building development along the frontage of certain roads.

*Sub-s. (4).*—Sub-s. (4) provides for the revocation of any planning scheme in force with respect to any land within the designated area. The Town and Country Planning Act, 1944, s. 33 (37 Halsbury's Statutes 462) also confers a power of revocation on the Minister, but the provision made by this subsection is intended to provide a simplified and speedier procedure.

If the Town and Country Planning Bill now before Parliament is passed in its present form, sub-ss. (3) and (4) and Sched. III, *post*, will be repealed (see s. 104 of, and Sched. VIII to, that Bill).

*Town and Country Planning Acts, 1932 and 1943.*—The Town and Country Planning Act, 1932 (25 Halsbury's Statutes 472), and the Town and Country Planning (Interim Development) Act, 1943 (36 Halsbury's Statutes 239). For s. 53 of the 1932 Act, see 25 Halsbury's Statutes 520.

*Town and Country Planning Act, 1944, s. 17.*—For this section, as applied by this Act, see 37 Halsbury's Statutes 446 and s. 23 and Sched. IV, *post*.

*Registration of Orders.*—For the registration of Orders, see the New Towns Act, 1946 (Registration of Orders) Rules, 1946 (S. R. & O., 1946, No. 1896/L.23), *post*.

*Advances.*—In order to qualify for advances, proposals must be approved by the Minister with Treasury concurrence as being likely to secure for the corporation a return which is reasonable, having regard to all the circumstances, when compared with the cost of carrying them out; see s. 12 (7), *post*.

**4. Acquisition of land by development corporations.**—(1) The development corporation established for the purposes of a new town may, with the consent of the Minister, acquire by agreement, or may be authorised by



means of a compulsory purchase order made by the corporation and submitted to and confirmed by the Minister to acquire compulsorily—

- (a) any land within the area designated under this Act as the site of the new town ;
- (b) any land adjacent to that area which they require for purposes connected with the development of the new town ;
- (c) any land, whether adjacent to that area or not, which they require for the provision of services for the purposes of the new town ;

and the provisions of Part I of the Second Schedule to the Town and Country Planning Act, 1944 (which relates to the procedure for making and confirming compulsory purchase orders), shall apply in relation to a compulsory purchase order under this section as they apply in relation to an order authorising a local planning authority to acquire land compulsorily under Part I of that Act. [1328]

(2) In relation to the acquisition of land by a development corporation under this section, the following provisions of the Town and Country Planning Act, 1944, that is to say—

- (a) sections thirteen and fourteen (which contain special provisions as to the acquisition under Part I of that Act of land belonging to statutory undertakers and land forming part of commons and other open spaces) ;
- (b) sections sixteen and seventeen (which relate respectively to the validity and date of operation of compulsory purchase orders under Part I of that Act, and to the registration of such orders in the register of local land charges) ; and
- (c) section eighteen (which applies the Lands Clauses Acts subject to modifications, including modifications providing for expediting the completion of compulsory purchases under that Part),

shall apply as they apply in relation to the acquisition of land by local planning authorities under Part I of that Act. [1329]

(3) Section two of the Acquisition of Land (Authorisation Procedure) Act, 1946 (which confers temporary powers for the speedy acquisition of land by local authorities having power to purchase land in accordance with section one of that Act or the Town and Country Planning Act, 1944), shall have effect as if references therein to a local authority included references to a development corporation :

Provided that without prejudice to the provisions of the said section two restricting the period within which an authorisation may be given thereunder for the compulsory acquisition of land, no such authorisation shall be given for the compulsory acquisition of land by the development corporation established for the purposes of a new town at any time after two years from the date on which the order under section one of this Act designating the site of the new town became operative. [1330]

(4) For the purposes of subsection (3) of section six of the Acquisition of Land (Authorisation Procedure) Act, 1946 (which relates to the acquisition of inalienable land), this Act shall be deemed to have been passed before the commencement of that Act. [1331]

(5) A compulsory purchase order under this section shall, in so far as it authorises the compulsory purchase of land which is the property of a local authority, or of land belonging to the National Trust which is held by the Trust inalienably, be subject to special parliamentary procedure in any case where an objection to the order has been duly made by the local authority or by the Trust, as the case may be, and has not been withdrawn. [1332]

(6) The provisions of Part VIII of the Requisitioned Land and War

Works Act, 1945 (which provides for the adjustment of compensation on the acquisition of land in certain cases), shall have effect where, in pursuance of a notice to treat served or deemed to be served before the expiration of two years from the end of the war period within the meaning of that Part, land which at the date of the notice to treat is, by virtue of an exercise of emergency powers as defined by that Act, in the possession of a Minister as so defined, or of a person acting under the authority of a Minister, is compulsorily acquired by a development corporation under this Act. [1333]

(7) For the avoidance of doubt it is hereby declared that a development corporation established under this Act is a public authority within the meaning of the Acquisition of Land (Assessment of Compensation) Act, 1919, and that Part II of the Town and Country Planning Act, 1944, applies accordingly for the purpose of the assessment of compensation for the compulsory purchase of land by such a corporation. [1334]

*General effect of section.*—See Preliminary Note, *ante*.

*The Minister.*—The Minister of Town and Country Planning (s. 26 (1)).

*Definitions.*—For definitions of “development”, “development corporation”, “local authority”, “National Trust” and “statutory undertakers”, see s. 26 (1), *post*.

*Town and Country Planning Act, 1944, ss. 13, 14, 16, 17 and 18.*—37 Halsbury's Statutes 441, 443, 445, 446, as modified for the purposes of the present Act by s. 23 and Sched. IV, *post*. For Parts I and II of that Act, see *ibid.* 423 *et seq.*, 476 *et seq.*, as so modified.

*Registration of compulsory purchase orders.*—The New Towns Act, 1946 (Registration of Orders) Rules, 1946 (S. R. & O., 1946, No. 1896/L.23), made in pursuance of s. 17 of the 1944 Act, s. 15 of the Land Charges Act, 1925 (15 Halsbury's Statutes 538), and of this Act, provide for the registration of compulsory purchase orders made under the present section, in a new part of the Local Land Charges Register to be known as Part VII. Provision is also made by these Rules for searching the Register and for the issue of official certificates of search on payment of the prescribed fees.

*Sub-s. (3).*—The effect of sub-s. (3) is to put a development corporation in the same position as a local authority in regard to the speedy acquisition of land under the Acquisition of Land (Authorisation Procedure) Act, 1946, s. 2, *ante*, for the first two years after the designation order made under s. 1 of the present Act becomes operative. Under the said s. 2 a local authority who could be authorised to purchase land compulsorily under any public General Act other than the Light Railways Acts, 1896 and 1912 (14 Halsbury's Statutes 252, 314), and the Housing Act, 1936, Part III (29 Halsbury's Statutes 584) may, where possession is urgently required, be so authorised, subject to Sched. III to the 1946 Act, by an authorisation in writing, which confers a right to take possession of the land at any time, except during the first seven days, within the following three months. This power of speedy acquisition does not, however, apply to dwelling-houses and to certain special classes of land specified in s. 1 (2) of that Act (see Sched. III, thereto, *ante*), nor, unless extended in accordance with sub-s. (9) of the said s. 2, will it be exercisable after April 18, 1951.

*Sub-s. (4).*—The effect of sub-s. (4) is to permit the compulsory acquisition of land held inalienably by the National Trust, since s. 6 (3) of the Acquisition of Land (Authorisation Procedure) Act, 1946, *ante*, permits such acquisition where a power to purchase land compulsorily is conferred under any Act passed before that Act.

*Requisitioned Land and War Works Act, 1945, Part VIII.*—38 Halsbury's Statutes 614. For the definitions of “emergency power” and “Minister”, see s. 59 thereof, *ibid.* 623.

*Acquisition of Land (Assessment of Compensation) Act, 1919.*—2 Halsbury's Statutes 1176. For the meaning of “public authority”, see s. 12 thereof, *ibid.* 1183.

*Sub-s. (7).*—The effect of sub-s. (7) is to apply the compensation provision of the Town and Country Planning Act, 1944, Part II (37 Halsbury's Statutes 476) to the compulsory purchase of land by a development corporation. Accordingly, compensation in respect of such purchases will, for a period of five years from the passing of that Act on November 17, 1944, be assessed by reference to prices current in March, 1939 (see s. 57 of that Act, *ibid.*), plus a supplement in the case of owner-occupiers (s. 58; *ibid.* 477), and in respect of improvements executed after March 31, 1939, but before the service of the notice to treat (s. 59; *ibid.* 480). The maximum rate of supplement in the case of owner-occupiers is now 60% (see the Acquisition of Land (Increase of Supplement) Order, 1946 (S. R. & O., 1946, No. 1163), made under s. 60 (3) (*ibid.*)).

**5. Disposal of land by development corporations.**—(1) Subject to any directions given by the Minister under this Act, the development corporation established for the purposes of a new town may dispose of any land acquired by them to such persons, in such manner, and subject to such covenants or conditions as they consider expedient for securing the development of the new town in accordance with proposals approved by the Minister under the foregoing provisions of this Act :

Provided that a development corporation shall not have power, except with the consent of the Minister, to transfer the freehold in any land or to

grant a lease of any land for a term of more than ninety-nine years, and the Minister shall not consent to any such disposal of land unless he is satisfied that there are exceptional circumstances which render the disposal of the land in that manner expedient. [1335]

(2) The powers of a development corporation with respect to the disposal of land acquired by them under this Act shall be so exercised as to secure, so far as practicable, that persons who were living or carrying on business or other activities on land so acquired shall, if they desire to obtain accommodation on land belonging to the corporation, and are willing to comply with any requirements of the corporation as to its development and use, have an opportunity to obtain thereon accommodation suitable to their reasonable requirements on terms settled with due regard to the price at which any such land has been acquired from them. [1336]

(3) Nothing in this Act shall be construed as enabling a development corporation to dispose of land by way of gift, mortgage or charge, but subject as aforesaid references in this Act to the disposal of land shall be construed as references to the disposal thereof in any manner, whether by way of sale, exchange or lease by the creation of any easement, right or privilege, or otherwise. [1337]

*General effect of section.*—See Preliminary Note, *ante*.

*The Minister.*—The Minister of Town and Country Planning (s. 26 (1)).

*Definitions.*—For definitions of "development" and "development corporation", see s. 26 (1), *post*.

*Sub-s. (1).*—The restrictions imposed by the proviso to sub-s. (1) of this section on the power of a development corporation to dispose of land may be compared with the similar restrictions placed on the powers of disposal of land by local planning authorities by the Town and Country Planning Act, 1944, s. 19 (5) (37 Halsbury's Statutes 448). They are in accordance with recommendations made in the Reith Committee's first and second interim reports (Cmd. 6759 and Cmd. 6794). The Committee stated that they regarded it as essential that a development corporation should retain as much control as possible over present and future development, and that the positive covenants in a lease provided a far more effective control than the negative covenants imposed on the purchaser of the fee simple. They added that the arrangement of leases so that they fell in at about the same time afforded the only certain way of ensuring that any given area could in due course be re-developed as a whole (Cmd. 6794, para. 15).

*Sub-ss. (2) and (3).*—Sub-ss. (2) and (3) are respectively similar to the Town and Country Planning Act, 1944, s. 19 (6) and (9) (37 Halsbury's Statutes 448, 449).

**6. Supplementary provisions as to land.**—(1) In relation to land acquired by a development corporation under this Act, the following provisions of the Town and Country Planning Act, 1944, that is to say :—

- (a) section twenty-two (which authorises the development of land acquired under Part I of that Act notwithstanding interference with easements and other rights);
- (b) sections twenty-three to twenty-five (which relate to the extinction of highways, private rights of way, and rights as to apparatus on land acquired under the said Part I);
- (c) sections twenty-eight and twenty-nine (which relate to the use of consecrated ground, burial grounds, and commons and other open spaces acquired under that Part); and
- (d) section thirty (which relates to displacements from land acquired under that Part);

shall apply as they apply in relation to land acquired by a local planning authority under Part I of that Act. [1338]

(2) Where a public right of way over a road on land acquired by a development corporation under this Act is extinguished by an order made under section twenty-three of the Town and Country Planning Act, 1944, as applied by this section, and compensation in respect of restrictions imposed under section one or section two of the Restriction of Ribbon Development Act,

1935, in respect of that road has been paid by the highway authority (or, in the case of a trunk road, by the authority for the purposes of section four of the Trunk Roads Act, 1936), the order may provide for the payment by the development corporation to that authority, in respect of the compensation so paid, of such sums as the Minister, with the consent of the Treasury, may determine. [1339]

(3) It shall be the duty of the Minister to give to any development corporation established under this Act such directions with respect to the disposal of land acquired by them thereunder and with respect to the development by them of such land, as appear to him to be necessary or expedient for securing, so far as practicable, the preservation of any features of special architectural or historic interest, and in particular of buildings included in any list compiled or approved under section forty-two of the Town and Country Planning Act, 1944 (which relates to the compilation or approval by the Minister of lists of buildings of special architectural or historic interest). [1340]

(4) Where any land within the area designated by an order under section one of this Act as the site of a new town has not been acquired by the development corporation within the period of seven years from the date on which that order became operative any owner of that land may by notice in writing served on the corporation require them to purchase his interest therein; and thereupon the corporation shall be deemed to have been authorised to acquire that interest compulsorily under the foregoing provisions of this Act, and to have served notice to treat in respect thereof on the date on which the notice was served on them under this subsection. [1341]

*The Minister.*—The Minister of Town and Country Planning (s. 26 (1)).

*Definitions.*—For definitions of "development" and "development corporation", see s. 26 (1), *post*.

*Town and Country Planning Act, 1944, ss. 22, 23-25, 28, 29, 30 and 42.*—37 Halsbury's Statutes 451, 452-453, 456, 458, 459, 467, as applied for the purposes of the present Act by s. 23 and Sched. IV, *post*. For Part I of that Act, see *ibid.* 423 *et seq.*, as modified.

*Restriction of Ribbon Development Act, 1935, ss. 1 and 2.*—28 Halsbury's Statutes 81, 82. Compensation is provided for by s. 9 thereof (*ibid.* 87).

*Trunk Roads Act, 1936, s. 4.*—29 Halsbury's Statutes 193.

*Displacements from acquired land.*—The effect of the application, made by sub-s. (1) (d), of s. 30 of the Town and Country Planning Act, 1944 (37 Halsbury's Statutes 459) as modified, is to impose on a development corporation a duty to provide, in advance of displacement, residential accommodation suitable to the reasonable requirements of persons displaced in so far as there is no other such accommodation available. This duty will, presumably, be less onerous than that imposed on local planning and highway authorities in respect of displacements from designated areas of extensive war damage under the 1944 Act.

*Sub-s. (4).*—Sub-s. (4) may be compared with the Town and Country Planning Act, 1944, s. 2 (4) (37 Halsbury's Statutes 427) which makes a comparable provision in respect of land within a designated area of extensive war damage. The period which has to elapse before notice may be served under that section is, however, 5 years from the appointed date, and, in addition, it is provided that in default of acquisition within a specified time after service, the land may be excepted from the operation of the order. The period of 7 years is prescribed by this section, since as it is expected that 10 years will be the normal period over which the full development of the whole area of a new town will be spread and that 3 years will be required for the full development of any particular area of land (see Preliminary Note, *ante*), the development corporation should at the end of seven years be ready to develop any land remaining for development.

*Exercise by corporation of its power of purchasing land.*—There is no power under the Act to compel a development corporation to purchase land within the designated area before the end of the seven-year period. Dealing with the problem of the owner-occupier whose land is within the area and who wishes to dispose of it before the corporation is ready to acquire it, the Minister of Town and Country Planning said: "It is no good closing one's eyes to the fact that there may be occasional hardships. I hope, however, that in a proper case, where the owner can satisfy the corporation that he is in difficulty, the corporation would be prepared to buy the land by agreement. Certainly, no directions would be given to prevent the corporation, in a proper case, buying the land by agreement if they desire to do so". Dealing with the wider issue of uncertainty of tenure, he added: "I see no reason why the corporation should not be able to give the owner-occupier some indication as to how long he will be able to stay. In so far as they can do that without committing themselves to an exact period, I think it would be in the interests of goodwill to give people as clear an indication as possible as to how they stand" (H. of C. Official Report S.C.A., May 30, 1946, col. 151).

**7. Highways.**—(1) In relation to an area designated under this Act as the site of a new town, section three of the Town and Country Planning Act, 1944 (which provides for the acquisition by local highway authorities and by the Minister of Transport of land required for the construction or improvement of roads communicating with areas of extensive war damage or with land which is to be made available for providing for relocation of population or industry, or for replacement of open spaces, in the course of the redevelopment of such areas), shall apply as it applies in relation to the areas of land referred to in paragraphs (a) and (b) of subsection (1) of that section. [1342]

(2) Section ten of the Development and Road Improvement Funds Act, 1909 (which enables the Minister of Transport to authorise the construction of new roads in respect of which advances are made under that Act and provides for the expenses of the construction, and for the maintenance of such roads), shall apply in relation to the construction of a new road by a local highway authority on land transferred to or acquired by them under this Act as if the road were a road in respect of the construction of which an advance were made to that authority under that section. [1343]

(3) The Minister of Transport may direct that any road constructed by him on land transferred to or acquired by him under this Act shall, on such date as may be specified in the direction, become a trunk road within the meaning of the Trunk Roads Acts, 1936 and 1946, and the provisions of those Acts shall apply to the road accordingly. [1344]

*General effect of section.*—See Preliminary Note, *ante*.

*Town and Country Planning Act, 1944, s. 3.*—37 Halsbury's Statutes 428, as modified for the purposes of this Act by s. 23 and Sched. IV, *post*.

*Development and Road Improvement Funds Act, 1909, s. 10.*—9 Halsbury's Statutes 213.

*Trunk Roads Acts, 1936 and 1946.*—29 Halsbury's Statutes 183, and *ante*.

**8. Housing.**—(1) A development corporation shall be deemed to be a housing association within the meaning of the Housing Act, 1936, and accordingly arrangements may be made under section ninety-four of that Act for the provision by such a corporation of any housing accommodation which a local authority are empowered to provide under that Act. [1345]

(2) For the purposes of the Housing (Financial and Miscellaneous Provisions) Act, 1946, the Minister of Health may approve any house provided by a development corporation otherwise than in pursuance of such arrangements as aforesaid as if it were a house provided by a local authority, and in respect of any house so approved the Minister of Health may, if he thinks fit, pay to the corporation, out of moneys provided by Parliament, sums not exceeding the annual exchequer contributions which would be payable under that Act if the house had been provided by such an authority. [1346]

(3) Where, in pursuance of any agreement or order made under the subsequent provisions of this Act, a house provided by a development corporation, being a house in respect of which an annual exchequer contribution is for the time being payable under section ninety-four of the Housing Act, 1936, or under subsection (2) of this section, is transferred to a local authority within the meaning of the said Act, then—

(a) the said contribution shall cease to be payable as aforesaid ; and

(b) the Minister of Health may, if he thinks fit, pay to the local authority, out of moneys provided by Parliament, sums not exceeding the annual exchequer contributions which would be payable in respect of the house if it had not been so transferred. [1347]

*Housing Act, 1936, s. 94.*—29 Halsbury's Statutes 636. "Housing association" is defined in s. 188 thereof (*ibid.* 680).

*Housing (Financial and Miscellaneous Provisions) Act, 1946.*—See *ante*.

*Annual exchequer contributions.*—The amounts of the annual exchequer contributions payable under the above Act are laid down in ss. 2-4 thereof, and Sched. I thereto. No provision is made by the present Act for the payment of the annual rate fund contributions which have to be paid by local authorities receiving the exchequer contribution (see ss. 5-7 and Sched. I). On being asked, during the debate on the second reading, how this payment would be met, the Minister of Town and Country Planning stated :

"I hope in the vast majority of cases working-class houses will be built by the corporation when it does build on behalf of or for the benefit of certain overcrowded towns, who are desirous of rehousing their population in the new towns. I contemplate an agreement between the exporting authority and the corporation, under which the exporting authority will pay to the corporation the whole or part of the rate subsidy . . . in consideration of being provided with accommodation for its inhabitants. . . . But where a corporation is not able to secure a rate contribution from any local authority, that rate contribution will have to be made good by the Exchequer". (422 H. of C. Official Report 1944.)

*Definition.*—For definition of "development corporation", see s. 26 (1), *post*.

**9. Public health.**—(1) If the Minister of Health is satisfied that it is expedient, in consequence of the making of an order under section one of this Act, that the area designated by that order as the site of the new town, or any larger area comprising that area, should be constituted a united district for any purpose for which a united district may be constituted under section six of the Public Health Act, 1936, he may make an order under that section constituting that area a united district for that purpose notwithstanding that no application in that behalf is made to him by the local authorities for the districts concerned, or by any of those authorities.

[1348]

(2) The Minister of Health may, on an application in that behalf made to him by the development corporation established for the purposes of a new town, by order authorise that corporation to exercise, for the purpose of the sewerage of the area designated under this Act as the site of the new town, any powers exercisable by a local authority under section fifteen of the Public Health Act, 1936 (which relates to the construction of sewers and sewage disposal works); and without prejudice to the provisions of this Act with respect to the acquisition of land by development corporations, any such order may provide for transferring to the development corporation any sewers or sewage disposal works vested in the sewerage authority for any district which comprises the area designated as the site of the new town or any part of that area :

Provided that before making any order under this subsection the Minister of Health shall consult with the council of the county and of the county district in which the new town or any part thereof is situated. [1349]

(3) Any order made under the last foregoing subsection may direct that any of the provisions of the Public Health Acts, 1936 and 1937, relating to sewerage and sewage disposal, or to sewers, drains, cesspools and sanitary conveniences (including the provisions of the Public Health Act, 1936, relating to the payment of compensation, the breaking open of streets and the power to enter on land) shall apply in relation to the area designated as the site of the new town, subject to such modifications as may be specified in the order, as if the development corporation were a local authority as defined by those Acts and as if sewers vested in the corporation were public sewers as so defined. [1350]

(4) Where, in pursuance of an order made under subsection (2) of this section, sewers or sewage disposal works are constructed by or vested in a development corporation for the purposes of the sewerage of any part of the district of a sewerage authority within the meaning of the Public Health Act, 1936, that authority shall make towards the expenses of the development corporation in the construction or maintenance of the sewers or sewage disposal works contributions of such amount and subject to such conditions as may be agreed upon between that authority and the corporation or as may, in default of such agreement, be determined by the Minister of Health ;



and the payment of any such contributions shall be a purpose for which the authority may borrow money. [1851]

(5) Any order made under subsection (2) of this section which provides for transferring to the development corporation sewers or sewage disposal works vested in a sewerage authority may provide for the payment by the corporation to that authority, in consideration of the transfer, of such sum as may be agreed upon between the corporation and that authority or as may, in default of such agreement, be determined by the Minister of Health. [1852]

*Definition.*—For definition of “development corporation”, see s. 26 (1), *post*.

*Public Health Act, 1936, ss. 6 and 15.*—29 Halsbury's Statutes 326, 334.

*Public Health Acts, 1936 and 1937.*—These are the above Act and the Public Health (Drainage of Trade Premises) Act, 1937 (30 Halsbury's Statutes 695). For the provisions of these Acts relating to sewerage and sewage disposal, etc., see the whole of the 1937 Act and ss. 14 to 52 (29 Halsbury's Statutes 333–363) of the 1936 Act. For the provisions of the 1936 Act relating to the payment of compensation, see s. 278 (*ibid.* 500), for those relating to the breaking open of streets, see ss. 279–282 (*ibid.* 501–505), and for those relating to the power to enter on land, see ss. 287–289 (*ibid.* 507–509). “Local authority” and “public sewer” are defined in s. 343 (*ibid.* 536). “Sewerage authority” is defined in s. 90 (*ibid.* 392).

**10. Statutory undertakers.**—(1) In relation to the provision of services by statutory undertakers for the purposes of new towns under this Act, and to the consequences of the acquisition of land thereunder, the following provisions of the Town and Country Planning Act, 1944, that is to say—

- (a) section twenty-six (which provides for the extension and modification of the powers and duties of statutory undertakers in order to secure the provision of services for purposes in connection with which land may be acquired under Part I of that Act by a local planning authority, or in order to facilitate adjustments necessitated by the acquisition under that Part of land of the undertakers); and
- (b) section twenty-seven (which provides for the relief of statutory undertakers from obligations the performance of which is rendered impracticable by the acquisition under Part I of that Act of land of the undertakers);

shall apply as they apply in relation to the provision of services for purposes in connection with which land may be acquired under Part I of that Act, and to the consequences of the acquisition of land under that Part. [1853]

(2) Without prejudice to the provisions of section twenty-six of the Town and Country Planning Act, 1944, as applied by the last foregoing subsection, if it appears to the Minister of Fuel and Power to be expedient for the purpose of securing an efficient supply of electricity or gas in an area designated under this Act as the site of a new town that any part of that area which is included in the limits of supply of any statutory undertakers authorised to supply electricity or gas (in this section referred to as “the transferors”) should be included in the limits of supply of any other such undertakers (in this section referred to as “the transferees”) he may by order provide for varying the respective limits of supply of those undertakers accordingly. [1854]

(3) An order made under the last foregoing subsection may provide for the transfer to the transferees of any part of the undertaking of the transferors, and may contain such incidental, consequential and supplementary provisions as the Minister of Fuel and Power thinks necessary or expedient for the purposes of the order; and in particular, but without prejudice to the generality of the foregoing provision, any such order may provide—

- (a) for transferring to the transferees any property or liabilities of the transferors;



- (b) for amending or repealing any local enactment (including any order or byelaw) relating to the undertaking of the transferees or of the transferors ;
- (c) for requiring the transferees to pay to the transferors such sum by way of compensation as may be agreed upon between them, or, in default of such agreement, as may be determined by the arbitration of such tribunal as may be specified in the order :

Provided that in determining the sum to be so paid under any such order the tribunal shall not take account of any potential profit that might have been derived by the transferors from the development of land which ceases to be comprised within their limits of supply by virtue of the order, except in so far as such development would have been likely to take place if the land had not been included in the site of a new town under this Act.

[1855]

(4) Provision shall be made by any order under subsection (2) of this section for securing that persons who, immediately before that order comes into operation, are employed by any undertakers whose limits of supply are varied by the order, and suffer damage in respect of their employment in consequence of the order, shall be entitled, in such cases, to such extent and subject to such conditions as may be prescribed by the order, to recover compensation in respect of that damage from such of those undertakers as may be specified therein ; and for the purpose of prescribing the matters aforesaid any such order shall provide—

- (a) in the case of an order varying the limits of supply of undertakers authorised to supply electricity, for the application of provisions not less favourable to the persons employed by those undertakers than those of section sixteen of the Electricity (Supply) Act, 1919 ;
- (b) in the case of an order varying the limits of supply of undertakers authorised to supply gas, for the application of provisions not less favourable to the persons employed by those undertakers than those which, in the opinion of the Minister of Fuel and Power, would be applied to them if the variation were effected under arrangements approved by a special order made under the Gas Regulation Act, 1920. [1856]

(5) An order made under subsection (2) of this section shall be subject to special parliamentary procedure, and the First Schedule to the Statutory Orders (Special Procedure) Act, 1945 (which sets out the notices to be given and other requirements to be complied with before an order is made), shall, in its application to any such order, have effect as if paragraph 1 of the said Schedule included a provision requiring the notice of the order as proposed to be made to be served by the Minister of Fuel and Power on the transferors and on the transferees. [1857]

(6) In this section the expression “ limits of supply ”, in relation to any undertakers, means the area within which those undertakers are authorised by any enactment to supply electricity or gas, as the case may be. [1858]

*General effect of section.*—See Preliminary Note, ante.

*Town and Country Planning Act, 1944, ss. 26 and 27.*—37 Halsbury's Statutes 455, 456, as modified for the purposes of the present Act by s. 23 and Sched. IV, *post*. For Part I of the Act, see *ibid.* 423 *et seq.* as so modified.

*Electricity (Supply) Act, 1919, s. 16.*—7 Halsbury's Statutes 764.

*Gas Regulation Act, 1920.*—8 Halsbury's Statutes 1278. Power to make special orders is contained in s. 10 thereof (*ibid.* 1287).

*Statutory Orders (Special Procedure) Act, 1945, Sched. I.*—38 Halsbury's Statutes 447.

**11. Contributions by development corporations towards expenditure of local authorities and statutory undertakers.**—Without prejudice to the generality of the powers conferred on development corporations by the fore-

going provisions of this Act, any such corporation may, with the consent of the Minister, contribute such sums as the Minister, with the concurrence of the Treasury, may determine towards expenditure incurred or to be incurred by any local authority or statutory undertakers in the performance, in relation to the new town, of any of their statutory functions, including expenditure so incurred in the acquisition of land. [1359]

*The Minister.*—The Minister of Town and Country Planning (s. 26 (1) ).

*Definitions.*—For definitions of “development corporation”, “local authority” and “statutory undertakers”, see s. 26 (1), *post*.

## 12. Advances and payments by Minister to development corporations.—

(1) For the purpose of enabling a development corporation to defray expenditure properly chargeable to capital account, including the provision of working capital, the Minister may make advances to the corporation repayable over such periods and on such terms as may be approved by the Treasury ;

Provided that the aggregate amount of the advances made under this subsection, including advances made under this subsection in its application to Scotland, shall not exceed fifty million pounds. [1360]

(2) For the purpose of enabling a development corporation to defray any other expenditure, the Minister may, out of moneys provided by Parliament, make grants to the corporation of such amount as may be approved by the Treasury. [1361]

(3) The Treasury may issue to the Minister out of the Consolidated Fund such sums as are necessary to enable him to make advances to a development corporation under subsection (1) of this section. [1362]

(4) For the purpose of providing sums (or any part of sums) to be issued under the last foregoing subsection, or of providing for the replacement of all or any part of sums so issued, the Treasury may, at any time, if they think fit, raise money in any manner in which they are authorised to raise money under the National Loans Act, 1939, and any securities created and issued to raise money under this subsection shall be deemed for all purposes to have been created and issued under that Act. [1363]

(5) All sums received by the Minister by way of interest on an advance made to a development corporation under subsection (1) of this section, and all sums received by way of repayment of the principal of such an advance, shall be paid into the Exchequer ; and the Minister shall lay before each House of Parliament a statement of any sums due from a development corporation by way of interest on or repayment of any such advances which are not duly paid to him in accordance with the terms approved under the said subsection (1). [1364]

(6) The sums paid into the Exchequer under the last foregoing subsection shall be issued out of the Consolidated Fund at such times as the Treasury may direct, and shall be applied by the Treasury as follows, that is to say—

(a) so much thereof as represents principal shall be applied in redeeming or paying off debt of such description as the Treasury may think fit ;

(b) so much thereof as represents interest shall be applied to the payment of interest which would, apart from this provision, have fallen to be paid out of the permanent annual charge for the National Debt. [1365]

(7) It shall be a condition of the making of advances to a development corporation under this section that the proposals for development submitted to the Minister under section three of this Act shall be approved by the Minister with the concurrence of the Treasury as being likely to secure for

the corporation a return which is reasonable, having regard to all the circumstances, when compared with the cost of carrying out those proposals.

[1366]

*The Minister.*—The Minister of Town and Country Planning (s. 26 (1)).

*Definitions.*—For definitions of "Consolidated Fund" and "development corporation", see s. 26 (1), *post*.

*National Loans Act, 1939.*—32 Halsbury's Statutes 1235.

**13. Accounts, audit, annual report, etc.**—(1) Every development corporation shall keep proper accounts and other records in relation thereto, and shall prepare in respect of each financial year annual accounts in such form as the Minister may, with the approval of the Treasury, direct. [1367]

(2) The accounts of a development corporation shall be audited by an auditor to be appointed annually by the Minister. [1368]

(3) As soon as the annual accounts of a development corporation for any financial year have been audited, the corporation shall send to the Minister a copy of the accounts prepared by them for that year in accordance with this section, together with a copy of any report made by the auditor thereon. [1369]

(4) The Minister shall prepare in respect of each financial year, in such form and manner and at such times as the Treasury may direct, an account of the sums issued to him out of the Consolidated Fund and advanced to a development corporation under section twelve of this Act and of sums received by him from that development corporation and paid into the Exchequer under the said section. [1370]

(5) On or before the thirtieth day of November in each year, the Minister shall transmit to the Comptroller and Auditor General the account prepared by him under the last foregoing subsection in respect of the last foregoing financial year and a copy of the annual accounts last sent to him by the development corporation under subsection (3) of this section, together with the report of the auditor thereon; and the Comptroller and Auditor General shall examine and certify the account prepared by the Minister and lay before each House of Parliament copies of that account, together with his report thereon, and copies of the audited accounts prepared by the development corporation. [1371]

(6) Every development corporation shall, as soon as possible after the end of each financial year, make to the Minister a report dealing generally with the operations of the corporation during that year; and the Minister shall lay a copy of every such report before each House of Parliament. [1372]

(7) Without prejudice to the requirement imposed by the last foregoing subsection, every development corporation shall provide the Minister with such information relating to the undertaking of the corporation as the Minister may from time to time require, and for that purpose shall permit any person authorised by the Minister in that behalf to inspect and make copies of the accounts, books, documents or papers of the corporation and shall afford such explanation thereof as that person or the Minister may reasonably require. [1373]

*Auditors.*—The section as originally drawn empowered the Minister to appoint district auditors to audit a development corporation's accounts, but this provision was deleted in Committee in the House of Lords. An assurance was given by a government spokesman on behalf of the Minister that the auditors to be appointed by him would be properly qualified persons (142 H. of L. Official Report 556).

*The Minister.*—The Minister of Town and Country Planning (s. 26 (1)).

*Definition.*—For definitions of "Consolidated Fund", "development corporation" and "financial year", see s. 26 (1), *post*.

**14. Transfer of undertakings of development corporations.**—(1) Without prejudice to the powers of development corporations under this Act to dispose of any of their property, including any trade or business carried on by them, any such corporation may, by an agreement made with any local authority or statutory undertakers and approved by the Minister with the concurrence of the Treasury, transfer to that authority any part of the undertaking of the corporation or transfer to those undertakers any part of that undertaking consisting of a statutory undertaking, upon such terms as may be prescribed by the agreement :

Provided that—

- (a) before approving an agreement under this subsection for the transfer of a statutory undertaking, the Minister shall publish in the London Gazette, and in one or more newspapers circulating in the area in which the new town is situated, a notice stating that the agreement has been submitted for approval, and describing the general effect of the agreement ; and if within twenty-eight days from the publication of the notice in the London Gazette any objection to the agreement is made by any statutory undertakers who, within the said area or any area adjacent thereto, are carrying on or authorised to carry on a statutory undertaking of a character similar to the statutory undertaking proposed to be transferred by the agreement, the foregoing provisions of this subsection shall apply in relation to the agreement as if for the reference to the Minister there were substituted a reference to the Minister and the appropriate Minister ; and
- (b) before approving any agreement under this subsection, the Minister shall consult with the council of the county and of the county district in which the new town or any part thereof is situated, except where the agreement is made with that council. [1874]

(2) If the Minister is satisfied that it is expedient, having regard to any agreement made or proposed to be made under subsection (1) of this section, that the liability of the development corporation in respect of advances made to them under this Act should be reduced, he may, by an order made with the consent of the Treasury, reduce that liability to such extent as may be specified in the order :

Provided that an order under this subsection shall be of no effect until it is approved by resolution of the House of Commons. [1875]

(3) The payment of any sums payable by a local authority for the purposes of an agreement under this section shall be a purpose for which that authority may borrow money. [1876]

*General effect of section.*—See Preliminary Note, *ante*.

*The Minister.*—The Minister of Town and Country Planning (s. 26 (1) ).

*Definitions.*—For definitions of “ development corporation ”, “ local authority ” and “ statutory undertakers ”, see s. 26 (1), *post*.

**15. Winding up of development corporations.**—(1) Where the Minister is satisfied that the purposes for which a development corporation was established under this Act have been substantially achieved, and is further satisfied, with the concurrence of the Treasury, that the circumstances are not such as to render it expedient on financial grounds to defer the disposal of the undertaking of the corporation under this section, he shall by order provide for the winding up and dissolution of the corporation. [1877]

(2) At any time after an order has been made under the last foregoing subsection, the Minister may, with the consent of the Treasury, by order provide for the transfer of the undertaking or any part of the undertaking of

the corporation to such local authority (being an authority within whose area the new town is situated) as may be specified in the order or, in so far as that undertaking consists of a statutory undertaking, to such statutory undertakers as may be so specified :

Provided that—

- (a) before making any such order the Minister shall consult with the council of the county and of the county district in which the new town is situated, with any other local authority and any statutory undertakers to whom the undertaking or part of the undertaking of the corporation will be transferred by virtue of the order, and with any statutory undertakers (not being such undertakers as aforesaid) who, immediately before the date on which the order under section one of this Act designating the site of the new town became operative, were authorised to carry on within the area designated by that order an undertaking similar to the undertaking or part of the undertaking which will be so transferred as aforesaid ; and
- (b) an order under this subsection shall be of no effect until an order defining the terms on which the transfer is to be made has become operative under the subsequent provisions of this section. [1378]

(3) Where provision is made under the last foregoing subsection for the transfer of the undertaking or any part of the undertaking of the development corporation to a local authority or statutory undertakers, the terms upon which the transfer is to be made shall be such as may be determined by an order made by the Minister with the consent of the Treasury, and any such order may provide for the payment by that authority or those undertakers, in consideration of the transfer, of such sum as may be specified in the order, to be satisfied in such manner as may be so specified :

Provided that not less than twenty-eight days before making an order under this subsection, the Minister shall serve a copy of the proposed order on the local authority or statutory undertakers to whom the undertaking or any part of the undertaking of the corporation is to be transferred, and if any objection is made by them within twenty-eight days after the service of the notice, the order shall be subject to special parliamentary procedure. [1379]

(4) If the Minister is satisfied that it is expedient, having regard to the provisions of any order or orders made or proposed to be made under subsection (3) of this section, that the liability of the development corporation in respect of advances made to them under this Act should be reduced he may, by an order made with the consent of the Treasury, reduce that liability to such extent as may be specified in the order :

Provided that an order under this subsection shall be of no effect until it is approved by Resolution of the House of Commons. [1380]

(5) An order under this section which provides for the transfer of the undertaking or any part of the undertaking of a development corporation to any local authority or statutory undertakers may contain such incidental, consequential and supplementary provisions as the Minister thinks necessary or expedient for the purposes of the order, and in particular, but without prejudice to the generality of the foregoing provision, may extend or modify the powers and duties of that authority or those undertakers so far as appears to the Minister to be necessary or expedient in consequence of the transfer :

Provided that—

- (a) in relation to an order which provides for extending or modifying the powers and duties of any statutory undertakers, subsection (2) of this section shall have effect as if for the first reference

therein to the Minister there were substituted a reference to the Minister and the appropriate Minister ; and

- (b) no order under this section shall confer or impose upon any local authority any powers or duties which are exercisable within the area of that authority by any other local authority. [1381]

(6) An order under subsection (1) of this section may provide for the appointment and functions of a liquidator of the development corporation, and may authorise the disposal, in such manner as may be determined by or under the order, of any assets of the corporation which are not transferred to a local authority or statutory undertakers under the foregoing provisions of this section. [1382]

(7) Any surplus arising from the winding up of a development corporation under this section shall be paid into the Exchequer ; and any deficit shall be defrayed out of moneys provided by Parliament. [1383]

*General effect of section.*—See Preliminary Note, *ante*. Dealing with the problem that might arise on the transfer of a corporation's undertaking where the area of the new town lay within the boundaries of more than one local authority, the Minister stated : " The intention would be to go to the Boundary Commission as soon as possible, and ensure that the whole area is within the jurisdiction of one local authority " (422 H. of C. Official Report 1083).

*The Minister.*—The Minister of Town and Country Planning (s. 26 (1) ).

*Definitions.*—For definitions of " appropriate Minister ", " development corporation ", " local authority " and " statutory undertakers ", see s. 26 (1), *post*.

## **16. Combination and transfer of functions of development corporations.—**

(1) If it appears to the Minister, in the case of any area designated under this Act as the site of a new town, that there are exceptional circumstances which render it expedient that the functions of a development corporation under this Act should be performed by the development corporation established for the purposes of any other new town instead of by a separate corporation established for the purpose, he may, in lieu of establishing such a separate corporation, by order direct that the said functions shall be performed by the development corporation established for the said other new town. [1384]

(2) If it appears to the Minister that there are exceptional circumstances which render it expedient that the functions of a development corporation established for the purposes of a new town should be transferred to the development corporation established for the purposes of any other new town, or to a new development corporation to be established for the purposes of the first-mentioned new town, he may by order provide for the dissolution of the first-mentioned corporation and for the transfer of its functions, property, rights and liabilities to the development corporation established for the purposes of the said other new town, or, as the case may be, to a new corporation established for the purposes of the first-mentioned new town by the order. [1385]

(3) Without prejudice to the provisions of this Act with respect to the variation of orders made thereunder, an order under this section providing for the exercise of functions in relation to a new town by the development corporation established for the purposes of another new town, or for the transfer of such functions to such a corporation, may modify the name and constitution of that corporation in such manner as appears to the Minister to be expedient, and for the purposes of this Act that corporation shall be deemed to have been established for the purposes of each of those new towns. [1386]

(4) Before making an order under this section providing for the transfer of functions from or to a development corporation or for the exercise of any



functions by such a corporation, the Minister shall consult with that corporation. [1887]

*Effect of section.*—This section enables a single development corporation in exceptional circumstances to be made responsible for more than one new town; see also note to s. 1, *ante*.

*The Minister.*—The Minister of Town and Country Planning (s. 26 (1)).

*Definition.*—For definition of "development corporation", see s. 26 (1), *post*.

**17. Limitation of actions, etc.**—(1) The Public Authorities Protection Act, 1893, and section twenty-one of the Limitation Act, 1939, shall not apply to any action, prosecution or proceeding against a development corporation, or for or in respect of any act, neglect or default done or committed by a servant or agent of any such corporation in his capacity as such. [1888]

(2) In their application to any such action as aforesaid, sections two and three of the Limitation Act, 1939 (which relate to the limitation of actions of contract and tort, and certain other actions), shall have effect with the substitution for references therein to six years of references to three years. [1889]

*Public Authorities Protection Act, 1893.*—13 Halsbury's Statutes 455.

*Limitation Act, 1939, ss. 2, 3 and 21.*—32 Halsbury's Statutes 225, 226, 235.

*Effect of section.*—The effect of sub-s. (1) is to exclude a development corporation from the protection afforded to public authorities whereby criminal proceedings against them must be commenced within six months (see the Public Authorities Protection Act, 1893, s. 1 (13 Halsbury's Statutes 455) as amended by the Limitation Act, 1939, s. 34 (4) and the Sched. (32 Halsbury's Statutes 244, 245)) and civil proceedings within one year (see the 1939 Act, s. 21, *supra*). As a result of sub-s. (2) actions against them founded on simple contract or on tort and certain other actions, must be commenced within three years. It should be noted, however, that sub-s. (2) does not alter the limitation periods of twelve years and two years respectively prescribed by sub-ss. (3), (4) and (5) of s. 2 of the 1939 Act, in respect of actions on specialties and judgments, and actions to recover a penalty.

This section is in almost identical terms with s. 49 (1), (2) of the Coal Industry Nationalisation Act, 1946 (39 Halsbury's Statutes 294).

**18. Superannuation of employees of development corporations.**—For the avoidance of doubt it is hereby declared that development corporations established under this Act are undertakers within the meaning of section five of the Local Government Superannuation Act, 1937 (which provides for the participation in the benefits of superannuation funds maintained under that Act of employees of undertakers exercising powers under any Act or statutory order). [1390]

*Local Government Superannuation Act, 1937, s. 5.*—30 Halsbury's Statutes 391.

*Definition.*—For definition of "development corporation", see s. 26 (1), *post*.

**19. Regulations, orders and other supplementary provisions.**—(1) Any power of the Minister to make regulations under the Town and Country Planning Act, 1944, shall include power to make regulations prescribing anything which is required to be prescribed under that Act as applied by this Act. [1391]

(2) Any power conferred by this Act to make an order shall be construed as including a power, exercisable in the like manner and subject to the like conditions, to vary or revoke the order. [1392]

(3) The provisions of sections fifty to fifty-four of the Town and Country Planning Act, 1944 (which relate to powers of entry, local inquiries, ecclesiastical property, notification of purchases of war damaged land to the War Damage Commission and the service of notices), shall apply for the purposes of this Act as they apply for the purposes of that Act. [1393]

*Regulations.*—Under this section the Minister has made the New Towns (Particulars and Forms of Orders and Notices) Regulations, 1947 (S. R. & O., 1947, No. 1354).

*Town and Country Planning Act, 1944.*—37 Halsbury's Statutes 420. For ss. 50–54 thereof, see *ibid.* 472–473. These sections are applied for the purposes of the present Act subject to the modifications effected by s. 23 and Sched. IV, *post*.



**20. Saving for revenue provisions, etc.**—Nothing in this Act shall be construed as exempting a development corporation from liability for any tax, duty, rate, levy or other charge whatsoever, whether general or local. [1394]

*Definition.*—For definition of “development corporation”, see s. 26 (1), *post*.

**21. Restriction on the provision by development corporations of certain public services.**—(1) Without prejudice to the provisions of subsection (4) of section two of this Act, nothing in this Act shall be construed as authorising a development corporation to carry on any undertaking for the supply of water, electricity or gas, or any railway, light railway, tramway or trolley vehicle undertaking except under the authority of an enactment other than the said section two specifically authorising them in that behalf. [1395]

(2) The development corporation established for the purposes of a new town may be authorised by means of an order made by the Minister of Transport to operate trolley vehicle services for the purposes of a new town; and any such order may impose such conditions as appear to the said Minister to be required in the interests of the public safety, and may contain such incidental and consequential provisions as appear to the said Minister to be necessary or expedient for the purposes of the order, including provisions—

- (a) authorising the construction and maintenance in highways of any works or equipment required in connection with the services;
- (b) providing for the making and enforcement of regulations and by-laws with respect to the construction and operation of any vehicles or equipment used for the purposes of the services, and the conduct of passengers on, and of the drivers and conductors of, any such vehicles.

[1396]

(3) Any order under the last foregoing subsection shall be subject to special parliamentary procedure. [1397]

(4) In this section the expression “trolley vehicle” means a mechanically propelled vehicle adapted for use upon roads without rails and moved by power transmitted thereto from some external source. [1398]

*Definition.*—For the meaning of “development corporation”, see s. 26 (1), *post*.

*Special parliamentary procedure.*—See the Statutory Orders (Special Procedure) Act, 1945 (38 Halsbury's Statutes 439).

**22. Transitional provisions.**—If an order is made under section one of this Act in relation to an area which comprises land acquired, whether before or after the commencement of this Act, under section thirty-five of the Town and Country Planning Act, 1932, the Minister may by order provide for transferring the land to the development corporation upon such terms as may be prescribed by the order, and for the purposes of this Act any land so transferred shall be treated as land acquired under section four of this Act. [1399]

*The Minister.*—The Minister of Town and Country Planning (s. 26 (1)).

*Definition.*—For definition of “development corporation”, see s. 26 (1), *post*.

*Town and Country Planning Act, 1932, s. 35.*—25 Halsbury's Statutes 506. Provision is made under that section for the acquisition of land by the Minister for the purpose of garden cities. In order to save time, the Minister, before the passing of the present Act, took the initial steps in connection with the acquisition of land at Stevenage, Herts, under that section. The present section enables him to transfer land so acquired to the Stevenage Development Corporation and places the corporation in the same position as if they had themselves acquired it under s. 4, *ante*.

**23. Modifications of Town and Country Planning Act, 1944, as applied.**—

(1) Any enactment contained in the Town and Country Planning Act, 1944, which is applied for the purposes of this Act by virtue of the foregoing provisions of this Act shall have effect as so applied subject to such of the

modifications set out in the Fourth Schedule to this Act as are applicable thereto. [1400]

(2) In any enactment so applied, any reference to any other enactment contained in the Town and Country Planning Act, 1944, which is applied for the purposes of this Act shall be construed as a reference to that enactment as so applied, and any reference to that Act or to Part I of that Act (not being a reference to any specified enactment or provision of that Act) shall be construed as a reference to that Act, or to Part I of that Act, as it applies for the purposes of this Act. [1401]

*Town and Country Planning Act, 1944.*—37 Halsbury's Statutes 420. For the application and modification of that Act for the purposes of this Act, see a Memorandum entitled "New Towns Act, 1946, Memorandum showing application and modification of provisions of the Town and Country Planning Act, 1944" obtainable from H.M. Stationery Office, price ninepence. See also the New Towns Compulsory Purchase (Contemporaneous Procedure) Regulations, 1947 (S. R. & O., 1947, No. 1353).

## 24. Payment out of moneys provided by Parliament of certain expenses.—

There shall be paid out of moneys provided by Parliament—

- (a) any sums authorised or required to be so paid by virtue of any of the provisions of the Town and Country Planning Act, 1944, as applied by this Act, including sums payable into the road fund for the purpose of defraying expenditure out of that fund under any of those provisions ;
- (b) any annual exchequer contribution payable under the Housing (Financial and Miscellaneous Provisions) Act, 1946, by virtue of any provisions of this Act ;
- (c) any administrative expenses incurred by the Minister for the purposes of this Act. [1402]

*The Minister.*—The Minister of Town and Country Planning (s. 26 (1)).

*Town and Country Planning Act, 1944.*—37 Halsbury's Statutes 420. See also note to preceding section.

*Housing (Financial and Miscellaneous Provisions) Act, 1946.*—See *ante*.

## 25. Provisions as to Scotland. [1403]

26. Interpretation, construction, short title and extent.—(1) In this Act, except where the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say—

- "appropriate Minister," in relation to any statutory undertakers, has the same meaning as in the Town and Country Planning Act, 1944 ;
- "Consolidated Fund" means the Consolidated Fund of the United Kingdom and includes the growing produce thereof ;
- "development" includes re-development ;
- "development corporation" has the meaning assigned to it by section two of this Act ;
- "enactment" includes a local Act and an order or byelaw made under any Act ;
- "financial year" means a year beginning on the first day of April ;
- "local authority" means the council of a county, county borough, metropolitan borough, or county district, the Common Council of the City of London and any other authority being a local authority within the meaning of the Local Loans Act, 1875, and includes a local highway authority, any drainage board and any joint board or joint committee if all the constituent authorities are such local authorities as aforesaid ;
- "local highway authority" means a highway authority other than the Minister of Transport, and includes the London County Council ;
- "local planning authority" means a local authority for the purposes of the Town and Country Planning Act, 1932, or, in a case where.

under any provision of that Act, the functions of a local authority are exercisable by a county council or by a joint committee, means that council or committee ;

“ the Minister ” means the Minister of Town and Country Planning ;

“ National Trust ” means the National Trust for Places of Historic Interest or Natural Beauty incorporated by the National Trust Act, 1907, and the reference to land held inalienably by the National Trust shall be construed as a reference to land which is inalienable under section twenty-one of the said Act or section eight of the National Trust Act, 1939 ;

“ planning scheme ” means a scheme under the Town and Country Planning Act, 1932, and includes a town planning scheme under the Town Planning Act, 1925, or any enactment repealed by that Act ;

“ statutory undertakers ” means persons authorised by any enactment to construct, work or carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking, or any undertaking for the supply of electricity, gas, hydraulic power or water, and the expression “ statutory undertaking ” shall be construed accordingly.

[1404]

(2) Reference in this Act to any other enactment shall be construed as references to that enactment as amended by any subsequent enactment including, except where the context otherwise requires, this Act. [1405]

(3) Any reference in any enactment to any provision of the Town and Country Planning Act, 1944, which is applied by this Act, shall be construed as including a reference to that provision as so applied. [1406]

(4) This Act may be cited as the New Towns Act, 1946. [1407]

(5) This Act shall not extend to Northern Ireland. [1408]

*Town and Country Planning Act, 1944.*—37 Halsbury's Statutes 420. For the meaning of “ appropriate Minister ” in relation to statutory undertakers, see s. 13 (7) thereof ; *ibid.* 442. *Local Loans Act, 1875.*—12 Halsbury's Statutes 242. “ Local authority ” is defined by s. 34 thereof ; *ibid.* 253.

*Town and Country Planning Act, 1932.*—25 Halsbury's Statutes 470. “ Local authority ” for the purposes of that Act is defined by s. 2 thereof ; *ibid.* 472.

*National Trust Act, 1907.*—7 Edw. 7, c. cxxxvi.

*National Trust Act, 1939.*—2 & 3 Geo. 6, c. lxxxvi.

*Town Planning Act, 1925.*—13 Halsbury's Statutes 1079.

## SCHEDULES

### Section 1

### FIRST SCHEDULE

#### PROVISIONS AS TO ORDERS UNDER S. 1

1. Where the Minister proposes to make an order under section one of this Act, he shall prepare a draft of the order, describing the area to be designated as the site of the proposed new town by reference to a map, either with or without descriptive matter (which, in the case of any discrepancy with the map, shall prevail except in so far as may be otherwise provided by the draft order) together with such statement as the Minister considers necessary for indicating the size and general character of the proposed new town.

2. Before making the order the Minister shall publish in the London Gazette, in one or more newspapers circulating in the locality in which the proposed new town will be situated, and in such other newspapers, if any, as he considers appropriate in the circumstances, a notice—

- (a) describing the area to be designated as the site of the proposed new town ;
- (b) stating that the draft of an order under section one of this Act has been prepared by the Minister in relation thereto and is about to be considered by him ;
- (c) naming a place within the said area where a copy of the draft order (including any map or descriptive matter annexed thereto) and of the statement

required by the foregoing paragraph, may be seen at all reasonable hours ; and

- (d) specifying the time (not being less than twenty-eight days from the publication of the notice in the Gazette) within which, and the manner in which, objections to the proposed order may be made,

and shall, not later than the date on which the notice is published in the Gazette, serve a like notice on the council of the county and of the county district in which the land, or any part of the land, to which the order relates is situated, and on any other local authority who appear to him to be concerned with the order.

3. If any objection is duly made to the proposed order and is not withdrawn, the Minister shall, before making the order, cause a public local inquiry to be held with respect thereto, and shall consider the report of the person by whom the inquiry was held.

4. Subject to the provisions of the last foregoing paragraph the Minister may make the order either in terms of the draft or subject to such modifications as he thinks fit :

Provided that, except with the consent of all persons interested, the Minister shall not make the order subject to a modification including in the area designated as the site of the proposed new town any land not so designated in the draft order.

5. As soon as may be after an order has been made as aforesaid, the Minister shall publish in the London Gazette, in one or more newspapers circulating in the locality in which the proposed new town will be situated, and in such other newspapers, if any, as he considers appropriate in the circumstances, a notice stating that the order has been made and naming a place within the area designated by the order as the site of the proposed new town where a copy of the order may be seen at all reasonable hours, and shall serve a like notice—

- (a) on any local authority on whom notice of the proposed order was served under paragraph 2 of this Schedule ; and  
(b) on any other person who has duly made an objection to the proposed order and, at the time of making it or thereafter, has sent to the Minister a request in writing to serve him with the notice required by this paragraph, specifying an address for service. [1409]

*The Minister.*—The Minister of Town and Country Planning Act (s. 26 (1)).

*Public local inquiry.*—The first public local inquiry under the Act was held at Stevenage, Herts, on October 7-8, 1946, and the first order was made on December 12, 1946, designating an area in that locality as the site of a proposed new town. As to the acquisition of land at Stevenage, see notes to ss. 1 and 22, *ante*.

## Section 2

## SECOND SCHEDULE

### CONSTITUTION OF DEVELOPMENT CORPORATIONS

#### *Appointment of members and tenure of office*

1. The members of a development corporation (in this Schedule referred to as "the corporation") shall be appointed by the Minister after consultation with such local authorities as appear to him to be concerned with the development of the new town, and in appointing members of the corporation the Minister shall have regard to the desirability of securing the services of one or more persons resident in or having special knowledge of the locality in which the new town will be situated.

The Minister shall appoint two of the members to be respectively chairman and deputy chairman of the corporation.

2. Subject to the following provisions of this Schedule, a member of the corporation, and the chairman and deputy chairman of the corporation shall hold and vacate office as such in accordance with the terms of the instrument by which they are respectively appointed.

3. If the chairman or deputy chairman of the corporation ceases to be a member of the corporation, he shall also cease to be chairman or deputy chairman, as the case may be.

4. Any member of the corporation may, by notice in writing addressed to the Minister, resign his membership, and the chairman or deputy chairman may, by the like notice, resign his office as such.

5. If the Minister is satisfied that a member of the corporation—

- (a) has become bankrupt or made an arrangement with his creditors ;  
(b) is incapacitated by physical or mental illness ; or

- (c) has been absent from meetings of the corporation for a period longer than three consecutive months without the permission of the corporation ; or
- (d) is otherwise unable or unfit to discharge the functions of a member, or is unsuitable to continue as a member,

the Minister may remove him from his office as a member of the corporation.

6. A member of the corporation who ceases to be a member or ceases to be chairman or deputy chairman shall be eligible for reappointment.

#### *Remuneration*

7. The corporation shall pay to their members, in respect of their office as such, such remuneration and such reasonable allowances in respect of expenses properly incurred in the performance of their duties as may be determined by the Minister with the consent of the Treasury, and shall pay to the chairman and deputy chairman, in respect of their office as such, such additional remuneration as may be so determined.

#### *Meetings and proceedings*

8. The quorum of the corporation and the arrangements relating to their meetings shall, subject to any directions given by the Minister, be such as the corporation may determine.

9. The validity of any proceeding of the corporation shall not be affected by any vacancy among their members or by any defect in the appointment of any of their members.

#### *Instruments, etc.*

10. The fixing of the seal of the corporation shall be authenticated by the signature of the chairman or of some other member authorised either generally or specially by the corporation to act for that purpose.

11. Any contract or instrument which, if made or executed by a person not being a body corporate, would not be required to be under seal may be made or executed on behalf of the corporation by any person generally or specially authorised by them to act for that purpose.

12. Any document purporting to be a document duly executed under the seal of the corporation shall be received in evidence and shall, unless the contrary is proved, be deemed to be so executed. [1410]

*The Minister.*—The Minister of Town and Country Planning (s. 26 (1)).

*Definitions.*—For definitions of “development corporation,” and “local authority,” see s. 26 (1), *ante*.

### Section 3

### THIRD SCHEDULE

#### ENACTMENTS WHICH MAY BE SUSPENDED UNDER SECTION THREE

Any enactment contained in a local Act.

Any order, byelaw or regulation, under whatever authority made.

The Public Health (Buildings in Streets) Act, 1888.

Sections thirty-three and thirty-four of the Public Health Act, 1925.

Section five of the Roads Improvement Act, 1925.

Section one or section two of the Restriction of Ribbon Development Act, 1935.

Section one hundred and seven of the Public Health Act, 1936. [1411]

*Public Health (Buildings in Streets) Act, 1888.*—13 Halsbury's Statutes 810.

*Public Health Act, 1925, ss. 33, 34.*—*Ibid.* 1128, 1130.

*Roads Improvement Act, 1925, s. 5.*—9 Halsbury's Statutes 223.

*Restriction of Ribbon Development Act, 1935, ss. 1 and 2.*—28 Halsbury's Statutes 81, 82.

*Public Health Act, 1936, s. 107.*—29 Halsbury's Statutes 403.

### Section 23

### FOURTH SCHEDULE

#### MODIFICATIONS OF PROVISIONS OF THE TOWN AND COUNTRY PLANNING ACT, 1944, AS APPLIED BY THIS ACT

#### *General Modifications*

1. For references to an order under section one of that Act, and to land as to which such an order is in force or land designated by such an order, there shall be substituted respectively references to an order under section one of this Act, and to land within the area designated by such an order as the site of a new town.

2. For references to a compulsory purchase order under that Act, or under Part I of that Act, or under any enactment contained in that Part, and to the compulsory purchase or acquisition of land thereunder, there shall be substituted respectively references to a compulsory purchase order under this Act, or under any enactment contained in or incorporated with this Act, and to the compulsory purchase or acquisition of land thereunder.

3. For references to land or buildings acquired for the purposes of Part I of that Act there shall be substituted references to land or buildings acquired for the purposes of this Act.

4. For references to the purchase or acquisition of land by a Minister, and to land acquired by a Minister, there shall be substituted respectively references to the purchase or acquisition of land by the Minister of Transport, and to land acquired by that Minister.

5. For references to a local planning authority (except the reference to paragraph (a) of subsection (2) of section twenty-three) there shall be substituted references to a development corporation.

6. References to land appropriated for the purposes of Part I of that Act and to the appropriation of land for those purposes shall be omitted.

*Additional Modifications of particular sections*

<i>Section</i>	<i>Modifications</i>
Section three ..	<p>.. In subsection (1) for paragraphs (a) and (b) there shall be substituted the following paragraphs :</p> <p>“ (a) outside the area designated under the New Towns Act 1946 as the site of a new town for the purpose of securing the development of land in that area in accordance with proposals approved by the Minister under that Act ; or</p> <p>.. (b) for the purpose of providing proper means of access to such an area.”.</p> <p>In subsection (3) for the words “ submitted with an application for ” there shall be substituted the words “ prepared for the purposes of ”.</p>
Section thirteen ..	<p>.. In subsection (1) for the words “ The preceding provisions of this Act ” there shall be substituted the words “ The provisions of the New Towns Act, 1946 ” ; and after the words “ contained in ” there shall be inserted the words “ or incorporated with ”.</p> <p>In paragraph (b) of subsection (4) for the words “ the Minister having jurisdiction by virtue of the enactment in question to authorise a compulsory purchase thereunder ” there shall be substituted the words “ the Minister of Transport ”.</p> <p>In subsection (5) for the words “ subsection (1) of section two or under section four of this Act ” there shall be substituted the words “ section four of the New Towns Act, 1946 ”, and in paragraph (a) of the subsection the words “ application for the ” shall be omitted.</p>
Section fourteen ..	<p>.. Subsections (2), (7), (8) and (9) shall be omitted.</p> <p>In subsection (5), paragraph (b) and the words “ and in a case falling within paragraph (b) thereof in accordance with the provisions of section ten of this Act ” shall be omitted.</p>
Section sixteen ..	<p>.. In subsection (1), the words “ or order ” shall be omitted ; for the words “ twenty-eight days ” there shall be substituted the words “ six weeks ” ; and for the words “ this Act ” in the fourth and all subsequent places where those words occur, there shall be substituted the words “ the New Towns Act, 1946, or this Act ”.</p> <p>In subsection (4) for the words “ this Act ” there shall be substituted the words “ the New Towns Act, 1946, or this Act ”.</p>

<i>Section</i>	<i>Modifications</i>
Section seventeen	.. In subsection (2) the words "the authority on whose application an order under section one of this Act is made, and of" shall be omitted.
Section eighteen	.. In subsections (1) and (2) for the words "this Part of this Act" there shall be substituted the words "the New Towns Act, 1946, and this Part of this Act." In subsection (4) for the words "this Part of this Act" in the second place where those words occur, there shall be substituted the words "the New Towns Act, 1946, and this Part of this Act", and for the words "this Part of this Act (together, in the case of the purchase under section four or subsection (4) of section nine of this Act, with the relevant enactment mentioned in section four of this Act)" there shall be substituted the words "that Act and this Part of this Act".
Section twenty-two	.. In subsection (1) for the words "this Part of this Act" in the second place where those words occur, there shall be substituted the words "that Act".
Section twenty-three	.. In subsection (2), in paragraph (a) the words "except where that authority applied for the making of the order" shall be omitted.
Section twenty-four	.. In subsection (3) for the words "a Minister" there shall be substituted the words "the Minister of Transport".
Section twenty-five	.. In subsections (5) and (9) for the words "a Minister", wherever those words occur, there shall be substituted the words "the Minister of Transport".
Section twenty-six	.. In subsection (1), in paragraph (a), for the words "any purpose in connection with which a local planning authority may be authorised under this Part of this Act to acquire land" there shall be substituted the words "the purposes of a new town under the New Towns Act, 1946"; and in paragraph (b) the words from "or necessitated", in the second place where those words occur, to the end of the paragraph shall be omitted. In subsection (5), for the words "any purpose in connection with which the authority may be authorised under this Part of this Act to acquire land" there shall be substituted the words "the purposes of a new town under the New Towns Act, 1946".
Section thirty	.. In subsection (1), after the word "accommodation," in the first place where that word occurs, there shall be inserted the words "suitable to the reasonable requirements of those persons;" and at the end of the subsection there shall be added the following paragraph:— "Where the land so acquired is land within the area designated under the said Act as the site of a new town, the references in this subsection to residential accommodation shall be construed as references to such accommodation in that area." In subsection (3), for the words "acquiring or appropriating authority" there shall be substituted the words "corporation or highway authority". In subsection (5) for the words "a Minister" there shall be substituted the words "the Minister of Transport".
Section fifty	.. In subsection (2) for the words "section seven of this Act" there shall be substituted the words "section three of the New Towns Act, 1946".
Section fifty-one	.. In subsection (1) for the words "this Act", in the first place where those words occur, there shall be substituted the words "the New Towns Act, 1946".



<i>Section</i>	<i>Modifications</i>
Section fifty-two	.. In subsection (2) for the words " this Act " there shall be substituted the words " the New Towns Act, 1946, or this Act ".
Section fifty-four	.. For the words " this Act ", in both places where those words occur, there shall be substituted the words " the New Towns Act, 1946, or this Act " ; and for the words " the authority " wherever those words occur there shall be substituted the words " the Minister, corporation or authority ".
Section sixty-five	.. The definitions of " clearing ", and " loan charges " shall not apply ; and in the definition of " purchasing authority " for the words " a Minister purchasing under this Act " there shall be substituted the words " a development corporation purchasing under section four of the New Towns Act, 1946, and the Minister of Transport purchasing under section three of this Act ".
First Schedule	.. In paragraph 1, in sub-paragraph (1), the words " an application for an order under section one of this Act " shall be omitted ; for the word " thereof ", in both places where that word occurs, there shall be substituted the words " of this Act " ; and for the words " a Minister " there shall be substituted the words " the Minister of Transport " ; and in sub-paragraph (2) after the word " sub-paragraph " there shall be inserted the words " or by any enactment incorporated therewith ".
Second Schedule	.. In paragraph 2, in sub-paragraph (3) (a), after the word " advertisement " there shall be inserted the words " and by affixing a copy thereof, addressed to ' the owners and any occupiers of the land ' (describing it), to some conspicuous object or objects on the land " . In paragraph 6, for the words " land as to which an application for an order under section one of this Act is pending " there shall be substituted the words " land in an area proposed to be designated as the site of a new town by an order a draft of which has been published in accordance with the First Schedule to the New Towns Act, 1946 " ; and for the word " application ", in the second place where that word occurs, there shall be substituted the word " order " . In Part II for the words " a Minister ", in both places where those words occur, and the words " the Minister making the order " and the words " the Minister having jurisdiction to make the order " there shall be substituted the words " the Minister of Transport " ; and paragraph 10 shall be omitted.
Third Schedule	.. In Part II for the words " a Minister ", in both places where those words occur, and for the words " the Minister having, in conjunction with the appropriate Minister, jurisdiction to make the order " and the words " the Minister having jurisdiction as aforesaid " there shall be substituted the words " the Minister of Transport ".
Fourth Schedule	.. In paragraph 1, sub-paragraph (c) shall be omitted. In paragraph 2, in sub-paragraph (4), after the word " right " there shall be inserted the word " or " ; and the words " refusal of permission, grant of permission subject to conditions, or revocation or modification of permission " shall be omitted.
Fifth Schedule	.. For the words " Part I of this Act ", wherever those words occur, there shall be substituted the words " the New Towns Act, 1946, and Part I of this Act ".

*Section**Modifications*

- In paragraph 1, in sub-paragraph (1) (a) the words "together, in the case of a purchase authorised by virtue of such an order as is mentioned in section four of this Act, with the relevant enactment mentioned in that section" shall be omitted; and in sub-paragraph (1) (d) for the words "a Minister" there shall be substituted the words "the Minister of Transport", and for the words "Part I of this Act" there shall be substituted the words "section three of this Act".
- In paragraph 9, in sub-paragraph (1) (b) for the words "a Minister" there shall be substituted the words "the Minister of Transport" and for the words "four or nine thereof" there shall be substituted the words "of this Act".
- In paragraph 10, for the words "section eleven of this Act," there shall be substituted the words "subsection (4) of section six of the New Towns Act, 1946."
- Sixth Schedule . . . In paragraph 8, for the words "Part I of this Act" there shall be substituted the words "the New Towns Act, 1946, and Part I of this Act".
- In paragraph 12 for the words "a Minister", in both places where those words occur, there shall be substituted the words "the Minister of Transport".  
[1412]

*Effect of Schedule.*—This Schedule sets out the modifications of the provisions of the Town and Country Planning Act, 1944 (37 Halsbury's Statutes 420), as applied by s. 23, *ante*, for the purposes of the present Act. To facilitate understanding of the effect of s. 23 and this Schedule, the Government have published a Memorandum entitled "New Towns Act, 1946, Memorandum showing application and modification of provisions of the Town and Country Planning Act, 1944" obtainable from H.M. Stationery Office, price ninepence.

## Section 25

## FIFTH SCHEDULE

MODIFICATIONS OF PROVISIONS OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT, 1945, AS APPLIED BY THIS ACT [1413]

## ORDERS, CIRCULARS AND MEMORANDA

THE TOWN AND COUNTRY PLANNING (AIRFIELDS)  
(INTERIM DEVELOPMENT) DIRECTION

*S. R. & O.*, 1946, No. 370

March 18, 1946

The Minister of Town and Country Planning (hereinafter called "the Minister") in exercise of the powers conferred upon him by subsection (2) of Section 6 of the Town and Country Planning (Interim Development) Act, 1943, as amended by subsection (2) of Section 31 of the Town and Country Planning Act, 1944, hereby directs that any Interim Development Authority to whom an application under Section 10 of the Town and Country Planning Act, 1932, has been made for consent to the development of land situate within three miles of any airfield, particulars of which have been furnished to that Authority by the Air Council, the Lords Commissioners of the Admiralty, the Minister of Aircraft Production, or the Minister of Civil Aviation, as the case may be, shall, to the extent specified in the Schedule hereto, notify the Minister of such application:

Provided that this Direction shall not be applicable to any extension or alteration of a building already erected at the date of such application where

the extension or alteration does not increase the total or ground floor space of such building by more than one quarter or does not increase the height of such building, and for the purposes of this proviso, chimneys, ornamental towers, turrets and other such architectural features shall not form part of the building in determining the height of the building. [1414]

#### SCHEDULE

Limits of distance from the airfield	Development in respect of which notification is required
Within a radius of 2 miles ..	<ol style="list-style-type: none"> <li>1. All dwellinghouses.</li> <li>2. All other buildings exceeding 10 feet in height.</li> <li>3. All works exceeding 10 feet in height.</li> <li>4. Any use of land for the deposit of waste materials where the deposit exceeds 10 feet in height.</li> </ol>
Within a radius of more than 2 miles and less than 3 miles.	<ol style="list-style-type: none"> <li>1. All buildings and works exceeding 35 feet in height.</li> <li>2. Any use of land for the deposit of waste materials where the deposit exceeds 35 feet in height.</li> </ol>

[1415]

\* \* \* \* \*

### THE ACQUISITION OF LAND (INCREASE OF SUPPLEMENT) ORDER, 1946

*S. R. & O., 1946, No. 1163*

*July 22, 1946*

The Treasury in exercise of the power conferred upon them by subsection (3) of section 60 of the Town and Country Planning Act, 1944 (hereinafter referred to as "the Act"), hereby make the following Order:—

1. As respects the period beginning on the 22nd day of July, 1946, and ending on the expiration of five years from the commencement of the Act for any reference in Section 58 of the Act to thirty per cent. there shall be substituted a reference to sixty per cent. [1416]

2.—(1) This Order may be cited as the Acquisition of Land (Increase of Supplement) Order, 1946.

(2) The Interpretation Act, 1889, applies to the interpretation of this Act\* as it applies to the interpretation of an Act of Parliament. [1417]

\* \* \* \* \*

#### EXPLANATORY NOTE

*(This Note is not part of the above Order, but is intended to indicate its general purport.)*

*Section 57 of the Town and Country Planning Act, 1944, provides for compensation on the compulsory acquisition of land by a Government Department or Local or Public Authority to be calculated by reference to prices current at the 31st March, 1939, in cases where the notice to treat is served at any time within the period of five years from the commencement of the Act (17th November, 1944). And Section 58 provides for a supplement to be paid to an owner-occupier*

\* As printed in the Order.

*where the compensation is by virtue of Section 57 to be calculated by reference to 1939 prices. The maximum supplement is fixed by the Act at 30 per cent. of the value of the building or interest. This Order increases the maximum rate of supplement to 60 per cent. in cases where the notice to treat is served on or after the 22nd July, 1946.*

## THE ACQUISITION OF LAND (COMPENSATION FOR WAR DAMAGED LAND) (COSTS) RULES, 1946

*S. R. & O., 1946, No. 1450*

*August 22, 1946*

Whereas it is provided by sub-paragraph (5) of paragraph 2 of the Eighth Schedule to the Town and Country Planning Act, 1944 (which Schedule makes provision for the ascertainment of the compensation for the compulsory purchase of land valued under the War Damage Act, 1943), that the costs of the employment by a claimant of a person skilled in valuation to advise or act for him on the agreement or assessment of the value of his interest shall be paid by the Authority :

And whereas it is provided by sub-paragraphs (6) and (8) of the said paragraph 2 and by Rules 7, 14 and 15 of the Acquisition of Land (Compensation for War Damaged Land) Rules, 1945 (hereinafter referred to as "the Principal Rules"), that certain matters may be determined by arbitration or reference :

And whereas it is provided by sub-paragraph (10) of the said paragraph 2 and by paragraph 13 of the First Schedule to the Principal Rules that the amount of any costs that a purchasing Authority are liable to pay by virtue of the said sub-paragraph (5), or of any arbitration or reference under the said sub-paragraphs (6) or (8) or under the Principal Rules, shall be determined by reference to scales to be prescribed by the Treasury :

Now, therefore, the Treasury in exercise of the powers in that behalf contained in sub-paragraph (10) of paragraph 2 of the Eighth Schedule to the Town and Country Planning Act, 1944, and paragraph 13 of the First Schedule to the Principal Rules and of every other power enabling them in that behalf hereby prescribe as follows :—

1. The costs that a purchasing Authority are liable to pay by virtue of the said sub-paragraph (5) in respect of the employment by a claimant of a person skilled in valuation shall be the aggregate of

- (a) four-thirds of the fee calculated in accordance with the scale set out in the Schedule hereto by reference to the appropriate amount, that is to say, that proportion of the certified after-damage value of the land (or that value as adjusted) which is apportioned to the claimant's interest and
- (b) one-fifth of the fee calculated in accordance with the scale set out in the Schedule hereto by reference to the appropriate amount, that is to say, that proportion of the certified after-damage value of the land (or that value as adjusted) which is apportioned to all the other interests (not represented by the same person) including excluded interests :

Provided that the fee payable under this sub-paragraph (b) shall not exceed one-half of the fee payable under sub-paragraph (a), and

- (c) the actual out-of-pocket expenses properly and reasonably incurred by that person in respect of travelling. [1418]

2. The costs of an arbitration or reference under sub-paragraphs (6) or (8) of the said paragraph 2 or under Rules 7, 14 or 15 of the Principal Rules shall be determined as follows :—

- (1) as regards the costs of a person skilled in valuation
  - (a) in the case of an arbitration under sub-paragraph (6) and Rule 14, an attendance fee of ten guineas for each day on which that person's attendance to give evidence before the arbitrator is required, but no qualifying fee shall be payable,
  - (b) in the case of an arbitration under sub-paragraph (8) and Rule 15, the aggregate of a fee calculated as in sub-paragraph (a) and a fee calculated in accordance with the scale set out in the Schedule hereto by reference to the amount of the compensation on the basis of the value of the interest as determined by the arbitrator,
  - (c) in the case of a reference under Rule 7, an attendance fee of ten guineas for each day on which that person's attendance to give evidence before the arbitrator is required and (but only in a case where notice to treat has been served in respect of not more than one interest in the land and the claimant in respect of that interest is entitled to the whole of the certified after-damage value (or that value as adjusted)) a qualifying fee being four-thirds of the fee calculated in accordance with the scale set out in the Schedule hereto by reference to the appropriate amount, that is to say, the difference between the certified after-damage value and the after-damage value as adjusted by the arbitrator so, however, that where such difference is ascertained by adding for some elements and subtracting for others the appropriate amount shall be the aggregate of the amounts so added and subtracted,
  - (d) in addition to the sums payable under sub-paragraphs (a), (b) or (c), the actual out-of-pocket expenses properly and reasonably incurred by that person in respect of travelling,
- (2) as regards legal costs, charges and expenses, without prejudice to the power of the arbitrator to assess the whole or any part of the costs or to order payment of costs as between solicitor and client or as between party and party, by reference to the provisions of Order LXV and Appendix N of the Rules of the Supreme Court, or, if the arbitrator so directs, to the scales of costs in Appendix B to the County Court Rules 1936 ;
- (3) as regards fees, the same fees shall be payable on the notice of reference or appeal given under the Principal Rules and on the decision of the arbitrator as are prescribed by the Treasury under Section 3 (6) of the Acquisition of Land (Assessment of Compensation) Act, 1919, on an application for the selection of an arbitrator and an award made by an official arbitrator respectively save that, in calculating the fee payable on the decision of the arbitrator, for references to the amount awarded to the claimant, there shall be substituted
  - (a) in the case of an arbitration under sub-paragraph (6) and Rule 14, references to the value of the interest as determined by the arbitrator,
  - (b) in the case of an arbitration under sub-paragraph (8) and Rule 15, references to the amount of the compensation on the basis of the value of the interest as determined by the arbitrator, and
  - (c) in the case of a reference under Rule 7, references to the appropriate amount, that is to say, the difference between the certified after-damage value and the after-damage

value as adjusted by the arbitrator so, however, that where such difference is ascertained by adding for some elements and subtracting from others the appropriate amount shall be the aggregate of the amounts so added and subtracted

and the Acquisition of Land (Assessment of Compensation) Fees Rules, 1931, and any rules amending or replacing them shall apply accordingly. [1419]

3. The sums prescribed by Rule 1 hereof and by Rule 2 hereof as regards the costs of a person skilled in valuation shall not be payable in respect of more than one such person for any one interest. [1420]

4. In these Rules the expression "arbitrator" includes, in relation to a reference under Rule 7 of the Principal Rules, any person or tribunal selected in accordance with the First Schedule to those Rules to determine the reference. [1421]

5.—(1) These Rules may be cited as the Acquisition of Land (Compensation for War Damaged Land) (Costs) Rules, 1946.

(2) The Interpretation Act, 1889, applies to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament. [1422]

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### SCHEDULE

#### SCALE OF FEES FOR PERSONS SKILLED IN VALUATION

Amount	Gns.	Amount	Gns.	Amount	Gns.	Amount	Gns.
£		£		£		£	
No Amount .. ..	Nil	1,800	22	5,200	39	8,600	56
Up to £50 .. ..	3	2,000	23	5,400	40	8,800	57
£50 and		2,200	24	5,600	41	9,000	58
below £100 ..	4	2,400	25	5,800	42	9,200	59
100 ..	5	2,600	26	6,000	43	9,400	60
200 ..	7	2,800	27	6,200	44	9,600	61
300 ..	9	3,000	28	6,400	45	9,800	62
400 ..	11	3,200	29	6,600	46	10,000	63
500 ..	13	3,400	30	6,800	47	11,000	68
600 ..	14	3,600	31	7,000	48	12,000	73
700 ..	15	3,800	32	7,200	49	14,000	83
800 ..	16	4,000	33	7,400	50	16,000	93
900 ..	17	4,200	34	7,600	51	18,000	103
1,000 ..	18	4,400	35	7,800	52	20,000	113
1,200 ..	19	4,600	36	8,000	53	Half a Guinea per cent. on the remainder	
1,400 ..	20	4,800	37	8,200	54		
1,600 ..	21	5,000	38	8,400	55		

As respects an amount between the steps in the Scale, if the amount is less than £1,000 the fee shall be calculated by reference to the next step above the actual amount; and if the amount is above £1,000 the fee shall be calculated by reference to the step next below the actual amount. [1423]

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\* As printed in the Rules. Sense would suggest "for"; cf. Rule 2 (1) (c), p. 553, *ante*.

## THE TOWN AND COUNTRY PLANNING GENERAL (INTERIM DEVELOPMENT) DIRECTION, 1946

*S. R. & O., 1946, No. 1585*

*September 30, 1946*

The Minister of Town and Country Planning (hereinafter called "the Minister") in pursuance of the powers conferred upon him by subsection (2) of Section 6 of the Town and Country Planning (Interim Development) Act, 1943, as amended by sub-section (2) of Section 31 of the Town and Country Planning Act, 1944, and of all other powers enabling him in that behalf, hereby directs that an Interim Development authority to whom any application has been made for permission under Section 10 of the Town and Country Planning Act, 1932, to develop land by the winning and working of any of the minerals specified in the Schedule hereto shall furnish the Minister with a copy of such application together with copies of any plans and maps submitted with such application. [1424]

### SCHEDULE

Fullers Earth.  
Diatomite.  
China Clay.  
China Stone.  
Felspar.  
Ball Clay.  
Talc.  
Pyrophyllite.

Bauxite.  
Tungsten Ore.  
Lead Ore.  
Zinc Ore.  
Tin Ore.  
Manganese Ore.  
Fluorspar.

Graphite.  
Lignite.  
Oil Shale.  
  
Anhydrite.  
Gypsum.  
Phosphate Rock.  
Mica.  
Celestine.

Moulding Sands.  
Silica Sands.  
Rock Quartzite.

[1425]

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## THE TOWN AND COUNTRY PLANNING (GENERAL INTERIM DEVELOPMENT) ORDER, 1946

*S. R. & O., 1946, No. 1621*

*October 7, 1946*

### ARRANGEMENT OF ARTICLES

#### *Preliminary*

1. Application, citation and operation.
2. Interpretation.

#### *Interim Development Authorities*

3. Authorities empowered to grant permission for development.

#### *Permitted Development*

4. Permitted development.
5. Power to exclude certain development from permitted development in particular areas.
6. Power to exclude certain development from permitted development in particular cases.



*Restrictions upon refusal of permission and imposition of conditions*

7. Applications relating to buildings by persons having statutory powers.
8. Applications relating to works for making good war damage.
9. Applications relating to buildings by mining undertakers, etc.

*Provisions as to applications for permission*

10. Form of applications for permission.
11. Special types of applications.
12. Form of grant and refusal of permission.
13. Consultation.
14. Power to suspend local Acts, etc.

*Supplementary provisions*

15. Provisions as to London.
  16. Powers of Minister.
  17. Cancellation and variation of directions.
  18. Service of notices.
  19. Revocation of previous interim development orders, and saving.
- Schedule.

The Minister of Town and Country Planning (hereinafter called "the Minister") in exercise of the powers conferred on him by Section 10 of the Town and Country Planning Act, 1932, as amended by the Town and Country Planning (Interim Development) Act, 1943, the Town and Country Planning Act, 1944, and of all other powers enabling him in that behalf, hereby orders as follows :—

*Preliminary*

**1. Application, citation and operation.**—(1) This order shall apply to all land in England and Wales in respect of which a resolution is for the time being in force :

Provided that in the event of a special interim development order being made in relation to any such land, this order shall apply thereto to such extent only and subject to such modifications as may be specified in the special order.

(2) This order may be cited as the Town and Country Planning (General Interim Development) Order, 1946, and shall come into force on the date hereof. [1426]

**2. Interpretation.**—(1) In this order, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively :—

"The Act" means the Town and Country Planning Act, 1932, as amended by the Town and Country Planning (Interim Development) Act, 1943, and the Town and Country Planning Act, 1944 :

"Existing building" means a building erected or constructed before the resolution date, or begun before and completed after that date, or erected or constructed in pursuance of a contract made before that date, or erected or constructed in accordance with permission granted by or under this order or any previous interim development order :

"Government department" includes the Electricity Commissioners :

"Highway" means a highway repairable by the inhabitants at large :

"Interim development authority", in relation to any land, means the authority empowered by this order to permit the development of that land :

"Local authority" means, in addition to a local authority as defined by the Act, any body having power to levy a rate or to issue a precept to a rating authority, and includes the Receiver for the Metropolitan Police District, and the Sussex Police Authority :

"Mining undertakers" includes undertakers engaged in the winning or working of minerals, whether by underground or surface working, and undertakers licensed under the Petroleum Production Act, 1934, to search and bore for and get petroleum; and for the purposes of this order any land in respect of which a licence is in force under the said Act authorising any undertakers to search and bore for and get petroleum shall be deemed to be comprised in their undertaking:

"Resolution" means a resolution to prepare or adopt a scheme, and "resolution date" means the date on which a resolution took effect or is deemed to have taken effect:

"Scheme" means a scheme under the Act, other than a supplementary scheme or a scheme varying an existing scheme:

"War damage" has the same meaning as in the War Damage Act, 1943.

(2) References in this order to a resolution shall be construed as including references to an application or resolution which has effect under section fifty-two of the Act as if it were a resolution as defined by this order, and any reference in this order to the local authority by whom a resolution was passed shall be construed accordingly.

(3) For the purposes of this order development shall be deemed to be sanctioned by a government department if—

- (a) any consent, authority or approval to or for the development is granted by the department in pursuance of any enactment; or
- (b) a compulsory purchase order is confirmed by the department authorising the purchase of land for the purpose of the development; or
- (c) consent is granted by the department to the appropriation of land for the purpose of the development or to the acquisition of land by agreement for that purpose; or
- (d) authority is given by the department for the borrowing of money for the purpose of the development, or for the application for that purpose of any money not otherwise so applicable; or
- (e) any undertaking is given by the department to pay a grant in aid in respect of the development in accordance with any enactment authorising the payment of such grants;
- (f) the development is for the purposes of the metropolitan police, the Sussex police force or any county police force, and is approved by one of His Majesty's Principal Secretaries of State.

and any reference in this order to an application for the sanction of a government department in respect of any development shall be construed accordingly.

For the purposes of this paragraph any consent, authority or approval given to a standing joint committee shall be deemed to have been given to the county council of the county for which the standing joint committee is appointed.

(4) The Interpretation Act, 1889, shall apply to the interpretation of this order as it applies to the interpretation of an Act of Parliament. [1427]

#### *Interim Development Authorities*

**3. Authorities empowered to grant permission for development.**—Subject as hereinafter provided, permission for the development of land to which this order applies may be granted—

- (a) in the case of land comprised in a resolution passed by a county council, other than the London County Council, or by a joint committee, by the council of the county borough or county district in which the land is situated;

(b) in the case of any other land, by the local authority by whom the resolution was passed :

Provided that where immediately before the commencement of this order, any authority specified in a general or special order in force were empowered to permit the development of any such land, permission for the development of that land may be granted under this order by that authority. [1428]

#### *Permitted Development*

**4. Permitted development.**—(1) Subject to the subsequent provisions of this order, and without prejudice to the right of any person to apply for permission under this order, development of the following classes may be undertaken upon land to which this order applies without the permission of the interim development authority, that is to say :—

**Class I.**—Development authorised by any Act, or by any order approved by both Houses of Parliament, or carried out under powers conferred by an order made by or requiring confirmation by or the approval of a Government Department, being an Act or order which specifically designates the land upon which the development may be carried out, except the erection, alteration or extension of buildings (including bridges and dams but not including any other structures or erections) ;

**Class II.**—Development by a local authority or by statutory undertakers which has been sanctioned before the first day of May, nineteen hundred and forty-five, by any government department ;

**Class III.**—The rebuilding, restoration or replacement of buildings and plant which have sustained war damage, except operations involving an increase in the cubic content of any building as it existed immediately before the occurrence of the damage, or a material alteration of the exterior of any such building ;

**Class IV.**—The carrying out of alterations to existing buildings and of operations required for the maintenance of existing buildings except alterations affecting the exterior of, or required in connection with an alteration of the use of, any building ;

**Class V.**—Development of any description specified in Part I of the Schedule to this order.

Provided that Class V shall not apply to the winning and working of minerals in respect of which an application for such winning and working has at the date on which this Order came into force been decided under Section 10 of the Act.

(2) For the purposes of this Article any development authorised by an Act or order subject to the grant of any consent or approval shall not be deemed to be so authorised unless and until that consent or approval is obtained ; and in relation to development authorised by any Act passed or order made, confirmed or approved after the commencement of this order, the foregoing provisions of this Article shall have effect subject to any provision to the contrary contained in the Act or order.

(3) Without prejudice to the foregoing provisions of this Article, where a scheme in respect of any land to which this order applies has been laid before both Houses of Parliament and is capable of coming into operation, any development permitted by the scheme (other than development in respect of which the consent of the responsible authority would be required thereunder) may be undertaken on the land without the permission of the interim development authority. [1429]

**5. Power to exclude certain development from permitted development in particular areas.**—(1) If as respects any area the interim development

authority are satisfied that it is expedient, having regard to any proposals for the redevelopment of that area or to any other special circumstances affecting that area, that development of any description specified in paragraph (1) of Article 4 of this order should not be undertaken in that area unless permission therefor is granted on application made under this order, they may direct that the provisions of the said paragraph shall not apply to development of that description within that area.

(2) A direction under this Article may relate to development of any one or more of the classes specified in paragraph (1) of the said Article 4, or to development of any particular description comprised in any of those classes :

Provided that no such direction shall have effect in relation to the following development, that is to say :—

- (a) in the case of development of Class I, development authorised by any Act passed after the commencement of this order, or any order approved by both Houses of Parliament or made by or requiring confirmation by or the approval of a Government Department, after that date ;
- (b) in the case of development of Class III, the restoration or replacement of plant, the carrying out of operations immediately necessary in consequence of war damage for avoiding danger to health or preventing the deterioration of any building or otherwise required for temporarily meeting the circumstances created by the damage, and the carrying out of any operations for the rebuilding, restoration or replacement of buildings which have sustained war damage the cost of which does not exceed such amount as may be specified, in relation to operations of that description, in the direction ;
- (c) in the case of development of Class IV, the carrying out of alterations to, or operations required for the maintenance of, any building the cost of which does not exceed such amount as may be specified, in relation to buildings of that description, in the direction ;
- (d) in the case of development of Class V, the carrying out in case of emergency of any development of that class, or the carrying out of development of any description specified in the first column of Part II of the Schedule to this order to the extent specified in relation thereto in the second column of that Part.

(3) A direction under this Article shall require the approval of the Minister, and, subject to the provisions of the preceding paragraph, the Minister may approve the direction with or without modifications.

(4) Where any direction is approved under this Article with respect to any area, the interim development authority shall publish in at least one newspaper circulating in the locality in which that area is situated, and on the same or a subsequent date shall also publish in the London Gazette, a notice of the direction containing a concise statement of the effect of the direction and naming a place where a copy thereof and of a map defining the area to which it relates may be seen at all reasonable hours ; and any such direction shall come into force on the date on which notice thereof is published in the London Gazette, but without prejudice to anything done before that date or to the making of an application under this order for permission for development of any description to which the direction relates.

(5) Any direction in force at the commencement of this Order approved by the Minister and published under Article 5 of the Provisional Town and Country Planning (General Interim Development) Order dated February 1, 1946, or deemed to have been approved or published under that Order, in

respect of development of Classes II, III or IV specified in Article 4 of that Order shall be deemed to be a direction approved by the Minister and published under this Article. [1430]

**6. Power to exclude certain development from permitted development in particular cases.**—(1) If in any particular case the Minister is satisfied, whether upon representations made by the interim development authority or otherwise, that it is expedient having regard to the provisions which in his opinion are likely to be or ought to be included in the scheme that any development by a local authority or by statutory undertakers, being development of Class II, or any development of Class V in so far as that class relates to the winning and working of minerals by surface workings and to the deposit of waste materials and refuse, and not in the case of either class being development of any other class specified in paragraph (1) of Article 4 of this order, should not be undertaken unless permission therefor is granted on application made under this order, he may direct that the provisions of the said paragraph shall not apply to that development.

(2) If in any particular case the interim development authority are satisfied that it is expedient having regard to the provisions proposed to be included in the scheme that any development, being development of Class III and not being development of any other class specified in paragraph (1) of Article 4 of this order, should not be undertaken unless permission therefor is granted on application made under this order, they may direct that the provisions of the said paragraph shall not apply to that development :

Provided that no such direction shall have effect—

- (a) in relation to the restoration or replacement of plant or to the carrying out of operations immediately necessary in consequence of war damage for avoiding danger to health or preventing the deterioration of any building or otherwise required for temporarily meeting the circumstances created by the damage ;
  - (b) in relation to any development on land comprised in an area in respect of which a direction under Article 5 of this order is in force with respect to development of Class III.
- (3) Where a direction is given under this Article, the interim development authority shall serve notice thereof—
- (a) in the case of a direction under paragraph (1) of this Article, on the local authority or statutory undertakers concerned, or on the person winning or working the minerals, as the case may be :
  - (b) in the case of a direction under paragraph (2) of this Article, on the owner and occupier of the land affected ;

and in the latter case shall also serve a copy of the notice on the War Damage Commission ; and every such direction shall come into force on the date on which notice thereof is so served, but without prejudice to anything done before that date or to the making of an application under this order for permission for the development to which the direction relates.

(4) Any direction in force at the commencement of this Order given, and notice thereof served, under Article 6 of the Provisional Town and Country Planning (General Interim Development) Order dated February 1, 1946, or deemed so to have been given, and notice thereof deemed to have been served, under that Order, in respect of development of Classes II or III specified in Article 4 of that Order shall be deemed to be a direction given, and notice thereof shall be deemed to have been served, under this Article. [1431]

*Restrictions upon refusal of permission and imposition of conditions***7. Applications relating to buildings by persons having statutory powers.**—

Where application is made in accordance with the provisions of this order for permission for the erection of a building to be erected under powers conferred by any Act or any order approved by both Houses of Parliament, or made by or requiring confirmation by or the approval of a Government Department, being an Act or order which specifically designates the land upon which those powers may be exercised, or for the alteration or extension of a building in the exercise of such powers, the interim development authority shall not refuse permission, and shall not impose conditions upon the grant thereof, unless they are satisfied that it is expedient so to do on the ground—

- (a) that the design or external appearance of the building as proposed to be erected, altered or extended, would seriously injure the amenity of the neighbourhood, and is reasonably capable of modification ; or
- (b) that the proposed building or extension ought to be, and can reasonably be, situated elsewhere upon the land,

or unless the land is comprised in an area in respect of which a direction under Article 5 of this order is in force with respect to development of Class I. [1432]

**8. Applications relating to works for making good war damage.**—Where application is made in accordance with the provisions of this order for permission for the rebuilding, restoration or replacement of any building not involving an increase in the cubic content of such building, which has sustained war damage, the interim development authority shall not refuse permission, and shall not impose conditions upon the grant thereof, unless they are satisfied that it is expedient so to do on the ground—

- (a) that the design or external appearance of the building would seriously injure the amenity of the neighbourhood, and is reasonably capable of modification ; or
- (b) that the building would not conform with a provision intended to be included in the scheme for fixing, in relation to a street or proposed street, a line beyond which no building may project ; or
- (c) that the building or the proposed use thereof would conflict with provisions intended to be included in the scheme for the reservation of the land or for regulating the use of the buildings permitted thereon, and that it would be necessary in the interests of the scheme to secure the removal or alteration of the building or prohibit the use,

or unless the building is comprised in an area in respect of which a direction under Article 5 of this order is in force with respect to development of Class III. [1433]

**9. Applications relating to buildings by mining undertakers, etc.**—Where application is made in accordance with the provisions of this order—

- (a) by mining undertakers for permission for the erection upon land comprised in their undertaking of any building required in connection with the winning, working, treatment or disposal of minerals ; or
- (b) by any person for permission for the erection on a site in the immediate vicinity of a pit head of any building in respect of which a grant has been or is to be made out of the Miners' Welfare Fund constituted under section twenty of the Mining Industry Act, 1920,

or for the alteration or extension of any such building, the interim development authority shall not refuse permission, and shall not impose conditions



upon the grant thereof, unless they are satisfied that it is expedient so to do on the ground—

- (i) that the design or external appearance of the building as proposed to be erected, altered or extended, would seriously injure the amenity of the neighbourhood, and is reasonably capable of modification ; or
- (ii) that the proposed building or extension ought to be, and can reasonably be, situated elsewhere upon the land of the undertakers, or, as the case may be, elsewhere upon that site,

or unless the land or site is comprised in an area in respect of which a direction under Article 5 of this order is in force with respect to development of any description specified in paragraph 5 of Part I of the Schedule to this order. [1434]

*Provisions as to applications for permission*

**10. Form of applications for permission.**—Subject to the provisions of this Article and to the subsequent provisions of this order, any person who desires to apply for permission under this order shall apply in writing to the interim development authority and shall furnish to the authority, together with his application, a plan in triplicate sufficient to identify the land to which the application relates (hereinafter called a “site plan”) and particulars, illustrated by plans and drawings in triplicate, sufficient to show the proposed development :

Provided that it shall not be necessary to furnish plans and drawings, other than a site plan, in any case where the proposed development is sufficiently described by the particulars together with the site plan, or where the application is expressed to be an application for general permission conditional on the subsequent approval by the authority, or by the Minister on appeal, of the particulars of the proposed development. [1435]

**11. Special types of applications.**—(1) Where the interim development authority are also the authority—

- (a) to whom plans of streets or buildings are required to be submitted under any byelaws, regulations or local Acts in force in the district ; or
- (b) whose approval is required under any enactment or statutory order for the carrying out of works by statutory undertakers,

any such submission or any application for any such approval made in respect of any development (not being development which is permitted by this order, or in respect of which an application for permission has otherwise been made under this order) shall, if accompanied by such particulars, plans and drawings as are required in the case of an application for permission under this order, be deemed to constitute such application, and shall be dealt with accordingly.

(2) If in relation to any proposed development in respect of which an application for permission is required under this order there is served on the interim development authority—

- (a) notice of any application made by a local authority or by statutory undertakers for the sanction of a government department in respect of that development ; or
- (b) a copy of a certificate issued by any government department for the purposes of this order certifying that that development is under any enactment for the time being in force immediately required for any of the purposes set out in sub-section (1) of section one of the Emergency Powers (Defence) Act, 1939 ;

the notice or copy shall be deemed to constitute a sufficient application under



this order for permission for that development, and subject to any directions given by the Minister under section six of the Town and Country Planning (Interim Development) Act, 1943, shall be dealt with by that authority accordingly.

For the purposes of this paragraph any application for sanction made by a standing joint committee shall be deemed to have been made on behalf of the county council of the county for which the standing joint committee is appointed. [1436]

**12. Form of grant and refusal of permission.**—The grant or refusal by an interim development authority of permission to develop land shall be in writing and, where the authority decide to grant permission subject to conditions, or to refuse permission, the reasons for their decision shall be stated in writing. [1437]

**13. Consultation.**—An interim development authority shall, in connection with the determination of any application made to them in accordance with the provisions of this order, consult with the following authorities or persons, that is to say :—

- (a) where the interim development authority are the county council, the council of the district in which the land to which the application relates is situated ;
- (b) where the interim development authority are not the county council, and the power to prepare a scheme for an area comprising the land to which the application relates has been relinquished to the county council, or the development to which the application relates would affect a road or proposed road for which the county council are the highway authority or are likely to become the responsible authority under the scheme, the county council ;
- (c) where it appears to the interim development authority that the development to which the application relates would be likely to affect land in the area of any other interim development authority, or land comprised in a scheme made under the Act or any Act repealed by the Act, that other authority or, as the case may be, the responsible authority under the scheme ;
- (d) where the interim development authority are a constituent member of a joint committee, that joint committee ; and
- (e) any authority or person specified in any direction given by the Minister :

Provided that any authority specified in paragraphs (a) to (d) of this Article may give notice to the interim development authority stating that during the continuance in force of the notice they do not require to be consulted in any case or class of case and the provisions of this Article shall have effect subject to any such notice. [1438]

**14. Power to suspend local Acts, etc.**—Subject to the provisions of the Act, an interim development authority may, in any case in which it is expedient in order to promote any development permitted by or under this order, by order made with the consent of the Minister suspend the operation of any enactments contained in local Acts and of any orders, byelaws or regulations under whatever authority made. [1439]

*Supplementary provisions*

**15. Provisions as to London.**—(1) The following are the classes of applications made to the London County Council under this order for permission to develop land in respect of which notice in accordance with the provisions of

subsection (3) of section fifty of the Act is to be given to the council of the metropolitan borough in which the land is situated, that is to say :—

- (a) applications for permission to develop where the development would materially conflict with existing development in the locality, and
- (b) applications for permission to develop in any part of a metropolitan borough in respect of which the council of the borough have notified the London County Council that they propose to construct or widen streets ;

Provided that it shall not be necessary to give notice to the council of a metropolitan borough, if the development is in accordance with proposals agreed between that council and the London County Council.

(2) Before suspending the operation of any enactment, order, byelaw or regulation under the powers conferred by this order in respect of land in a metropolitan borough, the London County Council shall give notice to the council of that borough of the proposed suspension, except where the enactment, order, byelaw or regulation has been previously suspended under the powers aforesaid in respect of land in that borough which is proposed to be included in the scheme and the object of the proposed suspension is to permit a departure from the enactment, order, byelaw or regulation not greater than was permitted by the previous suspension. [1440]

**16. Powers of Minister.**—If it appears to the Minister that any direction ought to be given, or any notice published or served, by an interim development authority under Article 5 or Article 6 of this order, he may give notice to that authority requiring them to take such action for the purpose as may be specified in the notice ; and if any such notice is not complied with within the time specified in that behalf therein, the Minister may himself take that action on behalf of the interim development authority. [1441]

**17. Cancellation and variation of directions.**—Any power conferred by this order to give a direction shall be construed as including power to cancel or vary the direction by a subsequent direction. [1442]

**18. Service of notices.**—Any notice to be served or given under this order may be served in the manner prescribed in the regulations made under the Act with respect to the service of notices under those regulations. [1443]

**19. Revocation of previous interim development orders, and saving.**—

(1) The Town and Country Planning (General Interim Development) Order, 1945, the Provisional Town and Country Planning (General Interim Development) Varying Order, dated November 21, 1945, and all special interim development orders made under section ten of the Act except the East Sussex (Chailley) Town and Country Planning (Special Interim Development) Order, 1945, the East Sussex (Cuckfield Rural) Town and Country Planning (Special Interim Development) Order, 1945, the East Sussex (Lewes) Town and Country Planning (Special Interim Development) Order, 1945, and the East Sussex (Seaford) Town and Country Planning (Special Interim Development) Order, 1945, are hereby revoked, but without prejudice to any permission to develop land previously granted by the interim development authority thereunder ; and any application for permission to develop land which, at the commencement of this order, is outstanding under any such order shall be determined under and in accordance with the provisions of this order.

(2) Nothing in this order shall affect the provisions of any special order made under section forty-five of the Housing and Town Planning Act, 1919, or section four of the Town Planning Act, 1925, being provisions which permit, or authorise a local authority to permit, any development specified in the order. [1444]

## SCHEDULE

## PERMITTED DEVELOPMENT OF CLASS V

## PART I

*Permitted Development*

1. The carrying out by railway undertakers, on land comprised in their undertaking, of any development required in connection with the movement of traffic by rail, including the construction, reconstruction, alteration, maintenance and repair of ways, buildings, works and plant, except—

- (a) the construction of railways, railway stations and bridges ;
- (b) the erection of any buildings outside the limits of a railway or railway station ;
- (c) the erection within the limits of a railway or railway station, but not wholly within the interior of a station, of residential buildings, offices, or buildings (hereinafter referred to as "factory buildings") to be used for manufacturing or repairing work ;
- (d) the reconstruction or alteration of buildings outside the limits of a railway or railway station, and the reconstruction or alteration, so as materially to affect the design or external appearance thereof, of railway stations or bridges, or of residential buildings, offices or factory buildings within the limits of a railway or railway station but not wholly within the interior of a station ;
- (e) the formation or alteration of any means of access to a highway.

2. The carrying out by dock or harbour undertakers, on land comprised in their undertaking, of any development required for the purposes of shipping, or in connection with the embarking, loading, discharging or transport of passengers, live-stock or goods at a dock or harbour or the movement of traffic by a railway forming part of the undertaking, including the construction, reconstruction, alteration, maintenance and repair of ways, buildings, works and plant, except—

- (a) the construction of bridges, the erection of any other buildings (not being structures or erections required in connection with the handling of traffic), and the reconstruction or alteration, so as materially to affect the design or external appearance thereof, of bridges or of any such buildings ;
- (b) the formation or alteration of any means of access to a highway.

3.—(1) The carrying out by canal or inland navigation undertakers, on land comprised in their undertaking, of any development required in connection with the movement of traffic by canal or inland navigation, including the construction, reconstruction, alteration, maintenance and repair of ways, buildings, works and plant required for those purposes, except—

- (a) the construction of bridges, the erection of any other buildings (not being structures or erections required in connection with the handling of traffic), and the reconstruction or alteration, so as materially to affect the design or external appearance thereof, of bridges or of any such buildings ;
- (b) the formation or alteration of any means of access to a highway.
- (2) The use by any such undertakers of any land for the spreading of dredgings.

4. The carrying out by electricity, gas, water or hydraulic power undertakers of any of the following development, being development required for the purposes of their undertaking, that is to say—

- (1) development of any description below the surface of the ground ;
- (2) the installation of any plant inside a building ;
- (3) the installation or erection within the premises of a gas works (including works for the manufacture or conversion of residual products) or generating station or sub-station established before the first day of May, nineteen hundred and forty-five of any plant or other structures or erections required in connection with the works, station or sub-station, and not more than fifty feet in height nor capable without addition of being extended to a height of more than fifty feet ;
- (4) the installation or erection of any plant or other structures or erections by way of addition to, or extension of plant, structures or erections already

installed or erected (including the installation in an electrical transmission line of sub-stations, feeder pillars or transformer kiosks, but not including the erection of overhead pipes for the supply of water, or the installation of sub-stations, feeder pillars or transformer kiosks of stone, concrete or brickwork) and not more than fifty feet in height nor capable without addition of being extended to a height of more than fifty feet ;

- (5) the replacement of any plant, structures or erections already installed or erected to a height not greater than the height of the existing plant, structure or erection, provided that such replacement shall not include the installation or erection of any plant, structure or erection capable of extension without addition to a greater height than that to which the existing plant, structure or erection is capable of being extended ;
- (6) The provision of any overhead line for the supply of electricity in accordance with the provisions of any enactment ;
- (7) any other development except—
  - (a) the erection of buildings, the installation or erection of plant or other structures or erections, and the reconstruction or alteration, so as materially to affect the design or external appearance thereof, of buildings ;
  - (b) the formation or alteration of any means of access to a highway.

5. The carrying out by mining undertakers, on land comprised in their undertaking, of any development required for the purposes of their undertaking, except—

- (a) the erection of buildings (not being plant or other structures or erections required for the winning, working, treatment or disposal of minerals), and the reconstruction, alteration or extension so as materially to affect the design or external appearance thereof, of such buildings ;
- (b) the formation or alteration of any means of access to a highway ;
- (c) the winning and working of minerals by surface working other than the winning and working of such minerals during a period of eighteen months from the 1st day of January, nineteen hundred and forty-six, on land which adjoins land used at that date for the same purpose where in relation to that use such winning and working forms a continuous operation ;
- (d) the deposit of waste materials or refuse in connection with the winning and working of minerals on any land other than land comprised in a site which was used for that purpose at the 1st day of January, nineteen hundred and forty-six, whether or not the superficial area of the deposit is thereby extended.

6. The carrying out by a drainage authority within the meaning of the Land Drainage Act, 1930, or by canal, inland navigation or water undertakers, of any development required in connection with the improvement, maintenance or repair of watercourses or drainage works.

7. The carrying out by a sewerage authority within the meaning of Part II of the Public Health Act, 1936, of any development below the surface of the ground required in connection with the provision, improvement, maintenance or repair of sewers.

8. The carrying out of development required in connection with the construction, reconstruction, improvement, alteration or repair of highways.

9. The carrying out by the General Lighthouse Authority under the Merchant Shipping Act, 1894, of any development required for the purposes of the exercise of their functions under that Act.

10. The carrying out by or on behalf of a Local Education Authority or the governors or managers of a voluntary school, on land held before the 1st day of October, 1945, for some purpose within the scope of the Education Act, 1944, of any of the following development, being development required for the purpose of the provisions of school accommodation needed in connection with the raising of the compulsory school age under that Act and requiring the approval of the Minister of Education, that is to say :—

- (1) the erection of huts ;
- (2) the alteration of buildings erected before that date. [1445]

## PART II

*Development excepted from a Direction under Article 5 of this Order*

<i>Description of Development</i>	<i>Extent of Exception from Direction</i>
Development permitted by virtue of paragraph 1 of Part I of this Schedule.	<ol style="list-style-type: none"> <li>1. Maintenance of railway stations, bridges and buildings.</li> <li>2. Alteration and maintenance of railway track, and provision and maintenance of track equipment, including signal boxes, signalling apparatus and other appliances and works required in connection with the movement of traffic by rail.</li> </ol>
Development permitted by virtue of paragraphs 2 and 3 of Part I of this Schedule.	<ol style="list-style-type: none"> <li>1. Maintenance of buildings, docks, quays, wharves, canal track and towing paths.</li> <li>2. Provision and maintenance of mechanical apparatus or appliances (including signalling equipment) required for the purposes of shipping or in connection with the embarking, loading, discharging or transport of passengers, livestock or goods at a dock, quay, harbour, bank, wharf or basin.</li> <li>3. In the case of a dock or harbour undertaking which includes a railway—               <ol style="list-style-type: none"> <li>(a) maintenance of railway stations, bridges and buildings ;</li> <li>(b) alteration and maintenance of railway track and provision and maintenance of track equipment, including signal boxes, signalling apparatus and other appliances and works required in connection with the movement of traffic by rail.</li> </ol> </li> </ol>
Development permitted by virtue of paragraph 4 of Part I of this Schedule.	<ol style="list-style-type: none"> <li>1. Extension, alteration and maintenance of plant or other structures or erections.</li> <li>2. Maintenance of any other buildings.</li> </ol>
Development permitted by virtue of paragraph 5 of Part I of this Schedule.	<ol style="list-style-type: none"> <li>1. Extension, alteration and maintenance of plant or other structures or erections required for the winning, working, treatment or disposal of minerals.</li> <li>2. Maintenance of any other buildings used for those purposes.</li> <li>3. Winning and working of minerals by underground working.</li> </ol>
Development permitted by virtue of paragraphs 6, 7, 8, 9 and 10 of Part I of this Schedule.	All development so permitted.

[1446]

\* \* \* \* \*

**EXPLANATORY NOTE**

*(This Note is not part of the above Order, but is intended to indicate its general purport.)*

*This Order (which supersedes without material change the provisional order dated February 1, 1946), is the general order controlling the development of land in England and Wales, except in those areas in which a scheme made by the local authority has actually come into operation. Section 10 of the Town and Country Planning Act, 1932, provides that an Order made under the Section controlling the interim development of land may itself permit the development either unconditionally or subject to conditions or may empower an authority*

*specified by the Order to permit it in accordance with the terms of the Order. Article 4 of the Order and the Schedule thereto set out the classes and types of development that are permitted, and Articles 5 and 6 provide procedure for the withdrawal of such permission in certain types of cases. Article 3 specifies the authorities who themselves may permit development and provision is also made as to the manner in which applications for permission may be made to the specified authorities (Article 10); for requiring the authorities to consult certain bodies and persons in respect of such applications (Article 3), and as to the extent to which permission may be granted or refused. (Articles 7, 8 and 9.)*

## THE NEW TOWNS ACT, 1946 (REGISTRATION OF ORDERS) RULES, 1946

S. R. & O., 1946, No.  $\frac{1896}{L.23}$

November 6, 1946

I, William Allen Baron Jowitt, Lord High Chancellor of Great Britain, by virtue and in pursuance of section 17 of the Town and Country Planning Act, 1944, the New Towns Act, 1946, and section 15 of the Land Charges Act, 1925, do hereby make the following Rules.

**1. Citation.**—These Rules may be cited as the New Towns Act, 1946 (Registration of Orders) Rules, 1946, and shall come into operation on the fourteenth day of November, 1946. [1447]

**2. Interpretation.**—(1) In these Rules, except as otherwise expressly provided and save where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say :—

- (a) “ the Act of 1925 ” means the Land Charges Act, 1925 ;
- (b) “ the Act of 1944 ” means the Town and Country Planning Act, 1944 ;
- (c) “ the Act of 1946 ” means the New Towns Act, 1946 ;
- (d) “ compulsory purchase order ” means an order made under the Act of 1946 authorising a compulsory purchase of land ;
- (e) “ designation order ” means an order made under section one of the Act of 1946 ;
- (f) “ parcel of land ” means a piece of land or a building or a part of a building in separate occupation or separately rated at the time of the requisition for search ;

For the purpose of this definition any land or building or part of a building which is neither in occupation nor rated shall be deemed to be occupied by the person who is the owner thereof within the meaning of the Public Health Act, 1936.

- (g) “ purchasing authority ” means any development corporation, local highway authority, Minister of the Crown, or other person or body purchasing under the Act of 1946 ;
- (h) “ the Register ” means the register of local land charges required to be kept in pursuance of the Act of 1925 ;
- (i) “ the registrar ” means the proper officer of the local authority required to register the compulsory purchase order or designation order, as the case may be, in the register in pursuance of the Act of 1946.

(2) The Interpretation Act, 1889, applies to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

(3) In these Rules unless the context otherwise requires, references to



any enactment shall be construed as references to that enactment as amended by or under any other enactment. [1448]

**3. Addition to Register.**—Compulsory purchase orders and designation orders which are registrable by virtue of the Act of 1946 shall be registered in a new part of the Register, to be known as Part VII. [1449]

**4. Entries in Part VII.**—(1) Every entry in Part VII of the Register shall contain :—

- (a) a reference to the title of the compulsory purchase order or designation order ;
- (b) the name of the purchasing authority authorised by the compulsory purchase order ;
- (c) a sufficient description, by reference to a map or plan, of the land which is or will be affected by the order ;
- (d) notice of the place at which inspection may be made of a copy of the order certified by or on behalf of the Minister by whom it was made or confirmed, as the case may be, in exercise of powers conferred by the Act of 1946, and of any map or plan referred to in or illustrating the order ;
- (e) the date on which the order was made or confirmed by the Minister as aforesaid ;
- (f) the date of registration of the order.

(2) The index to the Register shall include entries in respect of Part VII of the Register for the purpose of enabling a person to trace any entry in the said Part VII.

(3) It shall be the duty of the registrar to enter in the Register particulars of the cancellation or any modification of a compulsory purchase order or designation order registered under Part VII as soon as may be after notification of the cancellation or modification has been given to him in writing by or on behalf of the purchasing authority or, in the case of a designation order, by or on behalf of the Minister of Town and Country Planning. [1450]

**5. Dates on which applications, etc., deemed to be made or given.**—

(1) Applications for registration of compulsory purchase orders and designation orders and notifications of modification or cancellation of entries in respect thereof delivered by post or under cover during the hours in which the office of the registrar is open for registration shall be treated as having been made or given immediately before the closing of the office for that day.

(2) Applications for registration of compulsory purchase orders and designation orders and notifications of modification or cancellation of entries in respect thereof delivered (whether by post or otherwise) between the hours of closing and of the next opening of the office for registration shall be treated as having been made or given immediately after such opening. [1451]

**6. Personal Searches.**—(1) Any person may search in Part VII of the Register and in the Index to the Register upon paying the appropriate fee prescribed by the Second Schedule to these Rules.

(2) Any person desiring to make a personal search in Part VII of the Register shall, if so required by the registrar, furnish his name and address and indicate by reference to a plan or otherwise the parcel or parcels of land in respect of which he proposes to search. [1452]

**7. Official Certificates of Search.**—(1) The provisions of sub-sections (1), (2), (7), (8) and (9) of section 17 of the Act of 1925 (which relate to official certificates of search) shall apply in respect of Part VII of the Register.

(2) Every requisition for search made under the said provisions as applied



by this Rule shall be in writing signed by the person making the same or by the solicitor acting for the person requiring the search to be made, and shall define the land in respect of which the search is to be made by means of a plan drawn to scale and (except where the applicant does not require a plan to be returned) furnished in duplicate, or by any other means sufficient to enable the land to be identified.

(3) A requisition for search in all or any of Parts I to VI of the Register may include a requisition for search in Part VII, and any form prescribed by Rules made under the Act of 1925 and the Act of 1944 for the purpose of requisitions for search and official certificates of search in Parts I to VI of the Register may be used accordingly :

Provided that the schedule to an official certificate of the result of a search in Part VII of the Register shall be in the form set out in the First Schedule hereto.

(4) An official certificate of the result of search in Part VII of the Register shall extend to registrations effected during the day of the date of the certificate, and shall be issued only after the registry is closed for registration on that date.

(5) A separate requisition for search in Part VII of the Register shall be made in respect of each parcel of land in respect of which search is requested, except where a certificate is required in respect of two or more contiguous parcels of land for the purpose of the same transaction. [1453]

**8. Fees.**—The fees payable for the registration, modification, or cancellation of entries and for searches and official certificates of search, in respect of Part VII of the Register, shall be those specified in the Second Schedule hereto. [1454]

\* \* \* \* \*

## FIRST SCHEDULE

*Part VII—Register of Compulsory Purchase Orders and Designation Orders under the New Towns Act, 1946*

Particulars of any designation order made under Section 1 of the Act of 1946, and for the time being in operation	1	Particulars of any compulsory purchase order made under the Act of 1946 and for the time being in operation	Name and address of authority who promoted the order mentioned in column 2	Place at which inspection may be made of any of the orders referred to in columns 1 and 2 and any map or plan referred to in or illustrating such orders	Date of confirmation, or making of order	Date of registration of order
	2	3	4	5	6	

[1455]

## SECOND SCHEDULE

## FEES

	s.	d.
1. On registration of		
(i) a compulsory purchase order, where the order is registrable by the Registrar of an authority other than the purchasing authority, per entry .. .. .	2	6
(ii) a designation order, per entry .. .. .	10	0
2. On modification or cancellation of any entry in Part VII of the Register (where the entry was made in the circumstances mentioned in Fee No. 1) .. .. .	1	6
3. On personal search in Part VII of the Register (except where such search is made in respect of the whole of the Register and payment has been made in respect thereof) .. .. .	2	0
In addition (but subject to a maximum additional charge of fourteen shillings) in respect of each parcel of land above one, where the search extends to several parcels of land .. .. .	1	0
4. For an official search (including issue of certificate) in Part VII of the Register (except where such search is made in respect of the whole of the Register and payment has been made in respect thereof) .. .. .	2	0
In addition (but subject to a maximum additional charge of twenty-one shillings) in respect of each parcel of land above one, where several parcels are, in accordance with the provisions of paragraph (5) of Rule 7, included in the same requisition, where such requisition is for search in Part VII of the Register and does not form part of a requisition for search in the whole or any part of the Register in respect of which such additional payment has been made .. .. .	1	6
5. For an office copy of any entry in Part VII of the Register (not including a copy or extract of any plan or document filed in the Registry) .. .. .	2	6
6. For an office copy of any plan or other document filed in the Registry, in respect of Part VII of the Register, such reasonable fee as may be fixed by the local Registrar according to the time and labour involved .. .. .		

Unless the context otherwise requires, "entry" for the purpose of this Schedule includes all entries made or required to be made in Part VII of the Register in respect of the relevant order.

All fees shall be prepaid.

[1456]

## EXPLANATORY NOTE

(This Note is not part of the Rules, but is intended to explain their general purport)

These Rules provide for the registration in Local Land Charges Registers of orders made by the Minister of Town and Country Planning under section 1 of the New Towns Act, 1946, and of compulsory purchase orders made for the purpose of that Act. The orders are to be registered in the new Part of the Register, to be known as Part VII. Provision is made for searching the Register and for the issue of official certificates of search, on payment of the fees prescribed in the Second Schedule to the Rules.

## THE TOWN AND COUNTRY PLANNING (AIRFIELDS) (INTERIM DEVELOPMENT) DIRECTION (NO. 2)

S. R. & O., 1946, No. 2138

December 16, 1946

The Minister of Town and Country Planning (hereinafter called "the Minister") in exercise of the powers conferred upon him by subsection (2) of Section 6 of the Town and Country Planning (Interim Development) Act.

1943, as amended by subsection (2) of Section 31 of the Town and Country Planning Act, 1944, hereby directs that the following addition shall be made to the Schedule to the Town and Country Planning (Airfields) (Interim Development) Direction dated 18th March, 1946 :—

Limits of distance from the airfield	Development in respect of which notification is required
Within a radius of 500 yards from the perimeter of the airfield.	All excavations.
[1457]	
*	*

Circular 91/46.

To all Local Authorities

MINISTRY OF HEALTH,  
WHITEHALL,  
LONDON, S.W.1.  
7th May, 1946.

SIR,

*Town and Country Planning Act, 1944—Part II\**  
*Compensation in connection with acquisition of land for*  
*Public Purposes*

I am directed by the Minister of Health to state that it is understood that local authorities would welcome guidance on the provisions of Part II of the Town and Country Planning Act, 1944, and also on the provisions of the Eighth Schedule to that Act. The following notes are intended to assist local authorities in their consideration of matters arising under those provisions. [1458]

**General**

1. Part II of the Town and Country Planning Act, 1944, adds to the Statutory Compensation Code relating to the compulsory purchase of land for public purposes and in general provides that

(a) compensation shall be assessed by reference to prices current at 31st March, 1939 (Section 57) ;

(b) a supplement to compensation under Section 57 may in certain circumstances be payable (i) to an "owner-occupier" of a building or of an agricultural property (Section 58) or (ii) in respect of "improvements" effected since 31st March, 1939 (Section 59) ;

(c) the certified after-damage value shall be the value for the purpose of compulsory purchase in the case of war damaged properties (Section 61 and the Eighth Schedule) ;

(d) the rate of interest payable where entry is made on land before the payment of compensation shall be 4 per cent. or such other rate as may be prescribed by the Treasury (Section 62).

It should be noted that Part II is not limited to purchases under Part I but applies to all compulsory purchases by a government department or a local authority or public authority. There is, however, a special code contained in the 4th Schedule to the Act as to the assessment or compensation for the acquisition under Part I of land held for the purpose of the carrying on of a statutory undertaking.

The operation of Sections 57–61 of Part II is limited to the 5 years ending 17th November, 1949. [1459]

\* The basis of compensation is likely to be modified as and when the Town and Country Planning Bill, now before Parliament, comes into force.

### Notes on Sections and Schedules

2. Section 57 (1) of the 1944 Act provides that where a Notice to Treat is served at any time within a period of five years from the commencement of the Act, i.e., 17th November, 1944, the value of the interest in the land being purchased by a local authority and compensation for damage by severance to other land held therewith or otherwise injuriously affected shall be ascertained by reference to prices current at 31st March, 1939. This basis will not, however, apply to compensation for disturbance (see paragraph 5) or to compensation assessed on the basis of the cost of equivalent reinstatement under Rule (5) of Section 2 of the Acquisition of Land (Assessment of Compensation) Act, 1919. [1460]

3. Section 57 (1) further provides that it shall be assumed that the land being purchased (or injuriously affected) had been on 31 March, 1939, in the same state as regards physical condition as it was at the date of the Notice to Treat and that the claimant's interest in the land had subsisted at 31st March, 1939, as it was in fact subsisting at the date of the Notice to Treat. [1461]

4. Section 57 (2) and the Seventh Schedule contain special provisions in regard to tenancies, land capable of being re-developed in combination with other land, dwelling houses to which the Rent and Mortgage Interest (Restrictions) Acts, 1920 to 1925, apply and to agricultural holdings. [1462]

5. Section 57 (3) provides that compensation for disturbance shall not be assessed at any greater amount than if Section 57 (1) had not been enacted. [1463]

6. Section 58 provides that where the land being purchased comprises a building or agricultural property, an "owner-occupier" (see paragraph 8) shall in addition to compensation under Section 57 (1) be entitled to the payment of supplemental compensation not exceeding 30 per cent. of the 1939 value of the building (but not the land on which it stands) or, if agricultural property, not exceeding a specified maximum. The maximum amounts of such supplements and the methods of ascertainment are laid down in sub-sections (2), (3) and (4).

An owner-occupier is not automatically entitled to supplemental compensation and the amount is limited to such sum (within the maximum) as may be reasonable in all the circumstances of his occupation. This Section should be read in conjunction with the Acquisition of Land (Valuation for Supplemental Compensation) Regulations, 1945 (S. R. & O., 1945, No. 370). [1464]

7. Section 58 (4) provides that in fixing the maximum supplement, it shall be assumed that the building or agricultural property had been at 31st March, 1939, in the same state as regards physical condition as it was at the date of the Notice to Treat. The exception to this rule is that where the land has sustained war damage which has not been made good, and where, apart from the compulsory purchase, the war damage payment under the War Damage Act, 1943, would be a payment of cost of works, it shall be assumed that the building or property had been at 31st March, 1939, in the state in which it was immediately before the occurrence of war damage. The effect is that in such cases the supplemental compensation to "owner-occupiers" will be based on the value of the building as undamaged and not in its damaged state. [1465]

8. Section 58 (5) and (6) and the Lord Chancellor's Regulations (S. R. & O., 1945, No. 759/L.12) lay down certain conditions which must be satisfied before a claimant can qualify as an owner-occupier. It will be necessary for the purchasing authority to decide on the merits of the case whether a claimant is entitled, as owner-occupier, to receive supplemental compensation under Section 58. It will be observed that the specimen claim form attached

to the Appendix provides for certain particulars to be furnished by the claimant in respect of his claim. Where the District Valuer is acting on behalf of the Local Authority, it will be necessary for the Authority to notify him whether the claimant may be deemed to be an owner-occupier within the meaning of Section 58 and, if so, the effective date (see Rule 4 (3) of S. R. & O., 1945, No. 370) if subsequent to the date of the Notice to Treat. This latter point is of importance, having regard to the limitations imposed by these sub-sections. Any dispute as to whether the claimant is an owner-occupier may be settled by the County Court (Section 60 (1) (a)). [1466]

9. Section 59 makes provision for the payment of a supplement to compensation under Section 57 (1) in cases where, since 31st March, 1939, land has been improved by the erection of buildings, or improvements to buildings or to agricultural land have been made. The payment is limited to such sum as may be reasonable in all the circumstances and inter alia an appropriate deduction may fall to be made from such supplemental compensation in respect of any improvements the cost of which has been borne out of public monies. [1467]

10. Section 60 (1) prescribes the method of dealing with disputed claims for supplemental compensation under Sections 58 and 59. [1468]

11. Section 60 (3) enables the Treasury, with the approval of Parliament, to vary the maximum rate of 30 per cent. prescribed for supplemental compensation to owner-occupiers under Section 58. [1469]

12. Section 60 (4) provides that where a claimant entitled to supplemental compensation as an owner-occupier under Section 58 would also be entitled to supplemental compensation for improvements under Section 59, he will only receive as a supplement to compensation arrived at under Section 57, a sum which represents the greater of the two amounts payable under Section 58 or 59 respectively. [1470]

13. Section 60 (3) provides that where a claimant is entitled to receive payment of interest on the compensation for the compulsory purchase of his land, he will also receive interest on the amount of any supplemental compensation under Section 58 or 59 to which he may be entitled. [1471]

14. Section 61 and the 8th Schedule provide that where the subject of a compulsory purchase is the whole of a war damaged hereditament within the meaning of the War Damage Act, 1943, and the War Damage Commission is required by that Act to ascertain its value by reference to its state after war damage and to an assumed sale thereof, the value of the land for the purpose of ascertaining the compensation for compulsory purchase shall be the after damage value as certified by the Commission, unless between the occurrence of the war damage and the time when the Notice to Treat is served, the land in the hereditament has been brought into such a state as to make it capable of being as beneficially used as before the occurrence of the war damage. The 8th Schedule further provides that the after damage value may be adjusted if, between the date of the war damage and the date of the Notice to Treat, there is any material difference in the state of the land or in the incumbrances required by the War Damage Act to be taken into account in ascertaining the value. [1472]

15. It is important to note that the War Damage Act (Section 14) provides that the compulsory purchase of a war damaged property converts a cost of works payment into a value payment in respect of any damage not made good at the date of the Notice to Treat or of any action by virtue of which acquisition becomes obligatory or of any agreement to purchase with powers of compulsory purchase. [1473]

16. It will be necessary for Authorities proposing to purchase property compulsorily to ascertain whether the property has sustained war damage and the kind of payment which would normally be determined by the War Damage Commission under the War Damage Act. Unless the authority is already in possession of this information, enquiry should be made of the Regional Office of the War Damage Commission as to the war damage position at the early stage of the proposals for acquisition. [1474]

17. On the confirmation of a compulsory purchase order or other authorisation having the effect of a compulsory purchase order, the local authority should ascertain from the War Damage Commission whether there has been any change in the war damage position of the war damaged property. Where the war damage has been wholly made good, the 8th Schedule of the Act will not apply and the compensation for compulsory purchase should be assessed under the general provisions of the Acquisition of Land (Assessment of Compensation) Act, 1919, as applied by the Town and Country Planning Act. Where the damage has not been wholly made good, the question arises of the application of the provisions of the 8th Schedule and the Acquisition of Land (Compensation for War Damaged Land) Rules, 1945, dated 28th September, 1945, made by the Lord Chancellor under the 8th Schedule—S. R. & O., 1945, No. 1216/L.19. [1475]

18. The procedure of basing the compensation for compulsory purchase in cases falling within the 8th Schedule on the certified after damage value will render unnecessary separate negotiations as to the purchase price unless negotiations on the adjustment of this value to take account of any material difference in the state of the land or in incumbrances are found to be necessary. It will be necessary to notify claimants of the procedure under the 8th Schedule and the Rules. Notices to Treat in respect of properties which have sustained war damage which has not been wholly made good should be accompanied by an explanatory leaflet as set out in the Appendix to this circular and the specimen form of claim annexed to the leaflet. [1476]

19. The Rules provide that

(i) any question whether between the occurrence of the war damage and the date of service of the Notice to Treat (a) the land has been brought into such a state as to make it capable of being as beneficially used as it was before the occurrence of the war damage, or (b) if the land has not been brought into such a state as mentioned in (a), there is any material difference in the state or in the incumbrances required by the War Damage Act to be taken into account in ascertaining its value shall be determined by the War Damage Commission :

(ii) if any claimant desires any such question to be determined, he should within 28 days after the date of the service of the Notice to Treat notify the purchasing authority :

(iii) on receipt of such notification the purchasing authority shall serve a copy of the notification on the Commission :

(iv) similarly, if the purchasing authority wishes to raise any such question, it should notify the Commission within 28 days after the date of the service of the first Notice to Treat :

(v) the Commission may extend the period of 28 days, even though the application is not made until after this period or any extension thereof has expired. [1477]

20. On receipt of a claim made in response to the Notice to Treat, the purchasing authority should send a copy to the appropriate Regional Office of the War Damage Commission with a request that a certificate of after damage value may be furnished or that the question may be determined, as



the case may be. The copy of the claim or a notification to the Commission of any question which the authority wishes to raise should be accompanied by :

- (i) particulars of the interests which are being acquired ;
- (ii) the names and addresses of the owners of such interests ; and
- (iii) the date of the service of the Notice to Treat in respect of each interest. [1478]

21. If no question is raised within the period of 28 days, or any extension thereof granted by the Commission, or if any question has been raised and the determination of the Commission has been issued, the purchasing authority or any claimant may apply to the Commission for a certificate of after damage value. [1479]

22. On receipt of a certificate of after damage value from the Commission, the purchasing authority is required to serve a copy on every owner whose interest is being acquired. The amount certified will become the purchase price of the land, unless any question has been raised under paragraph 19 (i). If any such question has been raised, the Commission will, when it has made its determination, issue to the purchasing authority a certificate of its determination. The authority is required to serve forthwith a copy of the certificate on every person whose interest is being acquired. [1480]

23. Where the purchasing authority and all the claimants have agreed, or the Commission has made a determination that there is a material difference in state or incumbrances and agreement has not been reached at the end of 30 days thereafter as to the amount of the adjustment in the certified after damage value required to take account of such difference, the purchasing authority, or any claimant, may within a further period of 30 days apply to the Reference Committee constituted under the Acquisition of Land (Assessment of Compensation) Act, 1919, for the question to be referred to an official arbitrator, or if any appeal is being dealt with at the same time under the War Damage Act, 1943, involving the after damage value to the tribunal appointed to deal with such an appeal. The Rules governing any such references are set out in the 1st Schedule to the Acquisition of Land (Compensation for War Damaged Land) Rules, 1945. [1481]

24. Section 18 and the 6th Schedule of the Town and Country Planning Act, 1944, provide that where the Minister confirming a compulsory purchase order certifies that it is requisite that the purchasing authority should have power to enter on and secure the vesting of the land in the authority before the expiration of the time that would be needed for the service of notices to treat, he may direct that the order should be one " providing for expedited completion ". In such cases a Notice to Treat will not be served and the notice required to be served under paragraph 3 (3) of the 6th Schedule should be accompanied by the document referred to in paragraph 18 of this circular letter. Thereafter the procedure for dealing with any questions which may be raised should be on the lines indicated above. [1482]

25. The Rules (Part III) further provide for the apportionment of the after damage value, or that value as adjusted, between the owners of the several interests in the land which is being acquired. Where there are several interests, the purchasing authority should, when serving on the owners of such interests a copy of the certificate of after damage value as indicated in paragraph 22 of this circular at the same time notify the owners that the amount will be apportioned between the owners of the various interests in accordance with the procedure set out in Part III of the Acquisition of Land (Compensation for War Damaged Land) Rules, 1945, to which they should refer. If within sixty days after the date of the Commission's certificate no agreement has been reached as to the apportionment of the

certified after damage value, the procedure indicated in Rule 12 of the Rules is applicable. The Valuation Officer, to whom the estimates of the value of the various interests should be transmitted under Rule 12, should be addressed care of the District Valuer, Inland Revenue, for the District in which the hereditament being acquired is situate. The Valuation Officer should be furnished with a copy of the certificate of the after damage value. [1483]

26. The procedure outlined in paragraphs 14-25 only applies where the land is the subject of a compulsory purchase. Where the land is being acquired by agreement without recourse to a Compulsory Purchase Order or other authorisation having the effect of a Compulsory Purchase Order, neither the provisions of the 8th Schedule of the Town and Country Planning Act, 1944, nor Section 14 of the War Damage Act, 1943, apply and the War Damage Commission's certificate of after damage value will not be applicable. In those cases where the war damage has not involved total loss and a cost of works payment would normally be payable, the right to receive such a payment would pass to the purchasing authority to whom it would then be open to apply to the Commission to convert the payment into a value payment under the provisions of section 13 of the War Damage Act. Where the property is a total loss under the War Damage Act the District Valuer will act, or will have acted, for the Commission and where he is also acting on behalf of the purchasing authority he will be aware of the estimate of the after damage value and his advice on the terms of purchase will take account of this information. [1484]

27. An additional copy of this Circular is forwarded for the use of the Chief Financial Officer. [1485]

I am, Sir, etc.

The Clerk to the Authority.

\* \* \* \* \*

#### APPENDIX

DRAFT NOTICE TO BE SENT OUT BY PURCHASING AUTHORITIES WITH NOTICE TO TREAT IN RESPECT OF WAR DAMAGED LAND OR NOTICE OF DECLARATION IN CASES OF DEEMED NOTICE TO TREAT.

1. In connection with the accompanying Notice to Treat your attention is called to the provisions of the Eighth Schedule to the Town and Country Planning Act, 1944, and the Acquisition of Land (Compensation for War Damaged Land) Rules, 1945 (S. R. & O., 1945, No. 1216/L.19).

2. Paragraph 1 of this Schedule provides in effect that, subject to certain adjustments mentioned below, where the land which is being compulsorily purchased comprises the whole of a war damaged hereditament or hereditaments, the value of the land comprised in such hereditament or hereditaments for the purposes of compensation for the compulsory purchase shall be taken to be the certified after-damage value, *i.e.* the amount certified by the War Damage Commission to be the value of such land in its state after war damage as ascertained under the War Damage Act, 1943, unless between the occurrence of the war damage and the time when the Notice to Treat is served or deemed to be served the land in the hereditament has been rendered capable of being as beneficially used as before the war damage.

3. If paragraph 1 of the Eighth Schedule does apply the certified after-damage value is nevertheless to be adjusted if there is any material difference either (a) between the state of the land after the war damage and its state at the time when the Notice to Treat is served or deemed to be served or (b) between the incumbrances, if any, to which the land was subject immediately after the occurrence of the war damage and the incumbrances, if any, to which it is subject at the time when the Notice to Treat is served or deemed to be served, being incumbrances of a kind required by the War Damage Act to be taken into account in ascertaining the value of the hereditament (see War Damage Act, 1943, Second Schedule, paragraph 1).



FORM OF CLAIM REQUIRED UNDER NOTICE TO TREAT SERVED ON ME ON  
THE DAY OF BY DEEMED TO BE SERVED  
(PURCHASING AUTHORITY)

(a) Name, residence, business or description of claimant	(b) No. on plan referred to on accompanying Notice to Treat or Notice of Declaration	(c) Situation and description of the lands and hereditaments	(d) Particulars of the estate, whether free- hold or leasehold and if leasehold the unexpired term of the lease and the rent payable	(e) Name of Occupiers, whether lessees or other tenants, the rent paid, the terms of years and the commencement of such terms
---	--	---	---	--

Details of compensation claimed should be given below distinguishing (except in respect of Item 2) the amounts under separate heads and showing how the amount claimed under each head is calculated. Strike out whichever of the items marked \* is inapplicable.

1. *Claim that the Eighth Schedule does not apply*  
(i) I claim that the Eighth Schedule to the Town and Country Planning Act, 1944, does not apply to the land described in Statement A on the ground that  
(a) the land has never been the subject of a claim under the War Damage Act, 1943;  
(b) the land is capable of being as beneficially used as before the war damage.  
(ii) I claim for the value of my freehold/leasehold interest the sum of £.....  
*Claim that the Eighth Schedule does apply and that no adjustment of the after damage value is required*  
I claim the amount of the after damage value as certified by the War Damage Commission and that no adjustment is required.  
3. *Claim that the Eighth Schedule does apply but that an adjustment of the after damage value is required*  
I claim that an adjustment of plus/minus £..... in the after damage value as certified by the War Damage Commission should be made on the ground of a material difference in :—  
(a) the state of the land (particulars given in Statement B);  
(b) incumbrances (particulars given in Statement C).

\* 4. *Claim for disturbance etc.*

I claim for disturbance and any other matter not directly based on the value of the land (apart from any claim under item 1, 2 or 3) the sum of £.....

\* 5. *Claim for Supplemental Compensation as owner/occupier*

I claim to be entitled to supplemental compensation under Section 58 of the Town and Country Planning Act, 1944, as an owner-occupier/deemed owner-occupier. Amount claimed £..... (Particulars given in Statement D.)

\* 6. *Claim for Supplemental Compensation in respect of improvements*

I claim to be entitled to supplemental compensation in respect of improvements under Section 59 of the Town and Country Planning Act, 1944, the sum of £..... (Particulars given in Statement E.)

STATEMENT A

Particulars of land to which the said Eighth Schedule is claimed not to apply.

STATEMENT B

Particulars of any material difference between the state of the land after the war damage and its state at the time of service of the Notice of Treat.

STATEMENT C

Particulars of any material difference in incumbrances after the war damage and at the time of service of the Notice to Treat.

STATEMENT D

Particulars of Claim for Supplemental Compensation under Section 58.

STATEMENT E

Particulars of Claim for Supplemental Compensation under Section 59.

(1)

Date on which the building was erected or the improvements were carried out.

(2)

Full particulars of the building erected or improvements carried out.

(3)

State cost of the Works (receipted accounts should be attached if available).

(4)

State whether any part of the cost was provided out of public monies.

(5)

State whether any part of the cost has been or will be recovered by means of increased returns or prices.

Signed .....  
Date.

[1487]

## CASES

*Town and Country Planning—Advertisements—Power of local authority to prohibit the use of a wall of dwelling-house for advertising purposes—"Structure"—Town and Country Planning Act, 1932 (c. 48), s. 47 (5), (8)—Town and Country Planning (Interim Development) Act, 1943 (c. 29), ss. 5, 15, Sched. I.*

The appellants, a firm of advertising contractors, were the owners of a dwelling-house, and they proposed to use the exterior wall of the house for the display of pictorial advertisements. The house was within the area which, under a scheme to be prepared under the Town Planning Acts, 1932–1943, was to be protected in respect of advertisements. The respondents, as the interim development authority, served the appellant with a notice, under the Town and Country Planning (Interim Development) Act, 1943, s. 5, of their intention to make an order prohibiting the use of the exterior wall of the house for the purposes of advertising. On appeal to a court of summary jurisdiction, the justices held that the respondents were entitled to take the proposed action. From this decision a case was stated for the opinion of the High Court at the request of the appellants:—

*Held*: s. 5 of the 1943 Act must be read subject to the provisions of s. 47 (8) of the 1932 Act, which did not empower a local authority to prohibit or control in advance a prospective advertisement or the use of a building for its display. The appellants were therefore entitled to the relief asked for and the notice served by the respondents must be set aside.

*Per Lord Goddard, L.C.J.*: "Structure" means something which is constructed, and therefore includes a wall.—*MILLS & ROCKLEYS, LTD. v. LEICESTER CORPN.*, [1946] K. B. 315; [1946] 1 All E. R. 424; 115 L. J. K. B. 373; 174 L. T. 307; 110 J. P. 136; 62 T. L. R. 248; 90 Sol. Jo. 139; 44 L. G. R. 88, D. C. [1488]

*Town and Country Planning—Advertisement hoarding—Land specified in planning scheme as "land to be protected in respect of advertisements"—Notice to remove hoarding—Other hoardings already on site prior to date of scheme—Notices already served in regard to other hoardings—Conditions to be considered in determining whether hoarding "seriously injures" amenity of land—Town and Country Planning Act, 1932 (c. 48), s. 47.*

*Magistrates—Appeal—Case stated—Form—Majority decision.*

Pursuant to the Town and Country Planning Act, 1932, a local authority made a planning scheme which came into effect in 1939. In 1945, a company erected an advertisement hoarding on certain land to which the scheme applied. The local authority served a notice on the company, under s. 47 of the 1932 Act, to remove their hoarding. Near to the company's hoarding there were three other hoardings which had been erected by other persons before 1939, but notices under s. 47 had now been served on the proprietors of these hoardings. The local authority contended that, in determining whether the company's advertisement seriously injured the amenity of land specified in the scheme, the presence at or near the site of other matters or things which might injure the amenity, but which could be lawfully removed by them, should not be considered, and, therefore, the existence of the other hoardings should not be considered. The company contended that only the circumstances existing at the date of the hearing were to be considered, and, therefore, the presence of the other hoardings must be taken into account:—

*Held*: in determining whether an advertisement hoarding injured the amenity of land to which a scheme applied, the court should not be influenced by the conditions as they existed merely at the date of the hearing. The fact that the local authority had power to remove the other hoardings, and had already started to do so, should also be considered.

*Per cur*: Where a Case has been stated for the opinion of the High Court, the fact that the decision was a conclusion by a majority should never be stated.—*MORE O'FERRALL, LTD. v. HARROW U.D.C.*, [1947] K. B. 66; [1946] 2 All E. R. 489; 110 J. P. 357; 62 T. L. R. 604; *sub nom.* *HARROW U.D.C. v. MORE O'FERRALL, LTD.*, 175 L. T. 277; 90 Sol. Jo. 490; 44 L. G. R. 372, D. C. [1489]

*Town and Country Planning—Resolution to prepare scheme—Scheme to include prohibition of use of land for certain purposes without consent of local authority—Validity—Town and Country Planning Act, 1932 (c. 48), ss. 1, 11.*

The respondent council passed a resolution to prepare a planning scheme under the Town and Country Planning Act, 1932. While the resolution was still in force the appellant proposed to use as a fun fair premises in an area covered by the scheme. The council, as interim development authority, served upon the appellant a notice under the Town and Country Planning (Interim Development) Act, 1943, s. 5, that it was their intention to prohibit the use of the premises as a fun fair on the ground, *inter alia*, that it was intended to provide in the scheme that the use for a fun fair of land, whether forming the site of a building or not, should not be commenced without the consent of the council. It was contended on behalf of the appellant that, although the council could provide in a scheme for the absolute prohibition of the use of a site as a fun fair, it was not within their powers to prohibit such use conditionally on their consent being obtained:—

*Held*: s. 1 of the 1932 Act provided that a scheme could be made with the general object of controlling the development of land, and ss. 11 and 12 made provisions for regulating the use or development of land; one method of controlling or regulating was by prohibiting the use of land for some purpose unless with the consent of the local authority; and, therefore, the insertion in the scheme of the words "without the consent of the council" was within the council's powers.

*Per* Goddard, L. C. J.: There would be a right of appeal to the Minister against the withholding of the consent.—*TAYLOR v. BRIGHTON BOROUGH COUNCIL*, [1947] K. B. 57; [1946] 2 All E. R. 492; 175 L. T. 209; 110 J. P. 359; 62 T. L. R. 561; 90 Sol. Jo. 479; 45 L. G. R. 1, D. C. [1490]

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## WATER SUPPLY

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### ORDERS, CIRCULARS AND MEMORANDA

#### THE CENTRAL ADVISORY WATER COMMITTEE ORDER, 1946

*S. R. & O., 1946, No. 28*

*January 9, 1946*

The Minister of Health, in exercise of the powers conferred upon him by section 2 of the Water Act, 1945, and of all other powers enabling him in that behalf, hereby orders as follows :—

1.—(1) This order may be cited as the Central Advisory Water Committee Order, 1946.

(2) In this order the following expressions shall have the meanings respectively assigned to them :—

“ the Minister ” means the Minister of Health ; and

“ the Committee ” means the Central Advisory Water Committee to be appointed under section 2 of the Water Act, 1945.

(3) The Interpretation Act, 1889, applies to the interpretation of this order as it applies to the interpretation of an Act of Parliament. [1491]

2. The Committee shall consist of a Chairman, Vice-Chairman and twenty members appointed by the Minister. [1492]

3. The Minister shall be the Chairman and the Parliamentary Secretary to the Ministry of Health shall be the Vice-Chairman of the Committee. [1493]

4.—(1) Ten members of the Committee shall go out of office on the 31st March, 1948, and the remaining members shall go out of office on the 31st March, 1950.

(2) The members to go out of office on 31st March, 1948, shall be selected by lot :

Provided that if there are two or more members of the Committee appointed as representing any particular interest, one member in the case of each such interest shall be selected by lot from among the persons representing that interest, and such number shall thereupon be selected by lot from among the members not appointed as representing any of those interests as will make up the total of ten.

(3) Subject as aforesaid, the members of the Committee shall hold office for four years and shall then go out of office :

Provided that on a casual vacancy occurring in the Committee the person appointed to fill the vacancy shall hold office during the remainder of the term of office of the person in whose place he is appointed and shall then go out of office.

(4) A member of the Committee shall not be eligible for re-appointment to the Committee until the expiration of one year from the end of his term of office. [1494]

5. The Chairman, or in his absence the Vice-Chairman, or in the absence of both the Chairman and the Vice-Chairman such member of the Committee

as the Minister may appoint for the purpose, shall preside at a meeting of the Committee. [1495]

6.—(1) The Committee shall meet at such times, and notice of meeting shall be given to the members of the Committee in such manner, as the Committee may with the approval of the Minister determine.

(2) At a meeting of the Committee eight shall be a quorum.

(3) No act or proceeding of the Committee shall be questioned on account of any vacancy in their body.

(4) The Committee may appoint a sub-committee for any purpose approved by the Minister, and may delegate any of their functions to any such sub-committee.

(5) A sub-committee may include persons who are not members of the Committee. [1496]

7. Subject to the provisions contained in this order the Committee may regulate their own procedure. [1497]

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## THE UNDERGROUND WATER (CONTROLLED AREAS) REGULATIONS, 1946

*S. R. & O., 1946, No. 675*

*May 11, 1946*

The Minister of Health in pursuance of the powers conferred on him by section 14 of the Water Act, 1945, and of all other powers enabling him in that behalf, hereby makes the following regulations :—

1. These regulations may be cited as the Underground Water (Controlled Areas) Regulations, 1946, and shall come into operation on the first day of June, 1946. [1498]

2.—(1) In these regulations, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them, that is to say :—

“ the Act ” means the Water Act, 1945 ;

“ licence ” means a licence under subsection (6) of section 14 of the Act.

(2) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [1499]

3.—(1) An application for a licence shall be made to the Minister in the form set forth in the first schedule to these regulations or in a form substantially to the like effect approved by the Minister.

(2) The application shall be accompanied by an Ordnance Survey map on a scale of not less than six inches to one mile showing the location of the proposed works, or the existing works from which it is proposed to abstract water, together with an area not less than one mile in radius round the said location. [1500]

4. An applicant for a licence shall publish once at least in each of two

successive weeks in one or more local newspapers circulating in the locality in which the works concerned are, or are to be, situated a notice—

- (a) stating the general effect of the application ;
- (b) specifying a place in or within a reasonable distance of the said locality where a copy of the application and of the map furnished to the Minister in accordance with paragraph (2) of regulation 3 of these regulations may be inspected by any person free of charge at all reasonable hours during a period of twenty-eight days from the date of the first publication of the notice ;
- (c) stating that any person desirous of objecting to the application may do so by giving notice of his objection to the Minister in writing before the expiration of the said period ;

and shall send to the Minister a copy of each newspaper in which the first-mentioned notice is published. [1501]

5. Not later than the date on which notice is first published as aforesaid, the applicant shall serve a copy thereof on every local authority within whose district, and on any statutory water undertakers within whose limits of supply, the said works are, or are to be, situated. [1502]

6. The applicant shall, at the request of any person interested, furnish to him a copy of the application upon payment of such charge, not exceeding one shilling, as he thinks reasonable. [1503]

7.—(1) Any body on whom a notice is required to be served under regulation 5 of these regulations, and any other person affected by the application, may object to the granting of a licence to the applicant by giving to the Minister notice of objection in writing before the expiration of the twenty-eight days referred to in regulation 4 of these regulations.

(2) The Minister may require any body or other person who has made an objection to state in writing the grounds of the objection.

(3) If any objection is made in accordance with these regulations by any such body as aforesaid or by any other person appearing to the Minister to be affected by the application, and the objection is not withdrawn, the Minister, before granting a licence, shall either cause a local inquiry to be held, or afford to the objector an opportunity to appear before and be heard by a person appointed by him for the purpose. [1504]

8. On the granting of a licence the Minister shall give to any person who has objected thereto in accordance with the provisions of these regulations and has not withdrawn his objection, notice of the granting and of any conditions attached to the licence which appear to him to affect that person. [1505]

9. If the Minister is satisfied, upon representations made by an applicant for a licence for the purposes of subsection (5) of section 14 of the Act, that it is necessary for the protection of existing underground works, whether waterworks or not, that such a licence should be granted without delay, he may dispense with compliance with the foregoing provisions of these regulations and grant to the applicant forthwith a temporary licence valid for a period not longer than three months. [1506]

10. A notice for the purposes of subsection (7) of section 14 of the Act shall be in the form set forth in the second schedule to these regulations or in a form substantially to the like effect approved by the Minister and shall be accompanied by an Ordnance Survey map on a scale of not less than six inches to one mile showing the location of the proposed boring or other works. [1507]

## FIRST SCHEDULE

## FORM OF APPLICATION FOR LICENCE

## WATER ACT, 1945

*Underground Water (Controlled Areas) Regulations, 1946*

*Form of Application for a Licence to construct works or abstract water in an area controlled under section 14 of the Act*

1. Name and address of applicant.
2. Location of proposed work or extension of work from which it is proposed to abstract water (*a*).
3. Purpose for which licence is desired (*b*).
4. Technical details of proposed work or existing work from which water is to be abstracted :—
 

Estimated depth of well or borehole.	
Size of well or borehole, etc.	
Description of method of lining and length of lining.	
Length of headings (if any) proposed.	
5. (i) Maximum daily quantity of water to be abstracted (*c*) : (i)
5. (ii) Proposed maximum rate of pumping. (ii)
6. Geological strata—
 

(i) from which water is to be drawn	(i)
(ii) through which the proposed well or borehole is expected to pass or through which the existing works pass.	(ii)
7. Purpose for which water is to be used.
8. Whether any request for a supply has been made to the local statutory water undertakers or local authority, and, if so, with what result.
9. Any further matters which should be taken into account by the Minister in considering the application.

I hereby apply for a licence in accordance with the provisions of section 14 of the Water Act, 1945, and the regulations made thereunder for the purpose set out above, and declare that to the best of my knowledge the above particulars are true.

Signed.....

Authorised on behalf of

.....

Date.....19....

*Directions for filling in this form*

(a) An Ordnance Survey map showing the situation and the surrounding district within a radius of at least one mile on a scale not less than six inches to one mile must be enclosed.

(b) *E.g.* trial bore, new borehole or well, or extension of existing works, or abstraction of water from existing works.

(c) In the case of an application to extend works or to abstract additional quantities of water from existing works the new maximum should be given; in the case of a trial bore the maximum quantity which it is hoped to abstract and the proposed maximum rate of pumping from the permanent works should be given.

NOTES.—Under section 45 of the Water Act, 1945, any person who for the purpose of obtaining any licence from the Minister knowingly makes any statement which is false in a material particular is liable to a heavy fine or imprisonment, or both.

Under section 7 of the Water Act, 1945, any person who proposes to sink, for the purpose of searching for or abstracting water, a well or borehole intended to reach a depth of more than 50 feet below the surface, must give notice of his intention to the Committee of the Privy Council for Scientific and Industrial Research, and comply with the provisions of that section as regards the keeping of records and furnishing of information. Notice for this purpose should be addressed to The Director, Geological Survey and Museum, Exhibition Road, South Kensington, London, S.W.7.

This form should be sent—

if the site of the works is in England, to the Secretary, Ministry of Health, Whitehall, London, S.W.1

if the site of the works is in Wales or Monmouthshire, to the Welsh Board of Health, Cathays Park, Cardiff. [1508]

## SECOND SCHEDULE

### FORM OF NOTICE FOR PURPOSES OF SECTION 14 (7) OF THE ACT

#### WATER ACT, 1945

#### *Underground Water (Controlled Areas) Regulations, 1946*

*Form of Notice of Intention to make a new boring for the purpose of searching for or extracting minerals in an area controlled under section 14 of the Act.*

I.....hereby give notice that..... intend(s) on.....19.... to begin to make a new boring for the purpose of searching for or extracting minerals and declare that to the best of my knowledge the particulars below are true.

Signed.....

Authorised on behalf of

Date.....19....

1. Name and address of company/person for whom the boring is to be made.
2. Location of proposed boring (a).
3. Whether trial boring or permanent work.
4. Size and estimated depth of proposed boring and method of construction.

(a) An Ordnance Survey Map showing the location on a scale not less than six inches to one mile must be enclosed.

NOTES.—Under section 45 of the Water Act, 1945, any person who in furnishing the above information knowingly or recklessly makes any statement which is false in a material particular is liable to a heavy fine or imprisonment, or both.

This form should be sent—

if the site of the works is in England, to the Secretary, Ministry of Health, Whitehall, London, S.W.1

if the site of the works is in Wales or Monmouthshire, to the Welsh Board of Health, Cathays Park, Cardiff. [1509]

\* \* \* \* \*

## WEIGHTS AND MEASURES

CASES :—

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Preston v. Coventry and District Co-operative Society, Ltd., [1946] 1 All E. R. 694— 589

## CASES

*Weights and Measures—Sale of bacon—Weight—“ Misrepresentation ”—Sale of Food (Weights and Measures) Act, 1926 (c. 63), s. 3.*

The C. co-operative society owned a grocer's shop which was in the charge of a manager. In the back of the shop the manager had kept some parcels of groceries ready for delivery to customers. On each parcel was a book containing a list of articles ordered by the customer. It was found in regard to some parcels of bacon that the weight of the bacon was less than the weight entered in the customer's book and for which it was proposed to charge the customer. The society was charged with the offence under the Sale of Food (Weights and Measures) Act, 1926, s. 3, of having made a “ misrepresentation either by word of mouth or otherwise ” “ in connection with the sale of an article of food ” :—

*Held* : upon the facts of the case, there was no evidence that there was a “ misrepresentation ” within the meaning of s. 3 of the 1926 Act. “ Misrepresentation either by word of mouth or otherwise ” required more than a mere entry in a book by the person who was alleged to have made the misrepresentation.—PRESTON v. COVENTRY AND DISTRICT CO-OPERATIVE SOCIETY, LTD., [1946] 1 All E. R. 694 ; 174 L. T. 194 ; 110 J. P. 174 ; 62 T. L. R. 201 ; 90 Sol. Jo. 176 ; 44 L. G. R. 60. [1510]

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